

AMENDED IN ASSEMBLY SEPTEMBER 11, 2009

AMENDED IN ASSEMBLY AUGUST 26, 2009

AMENDED IN ASSEMBLY JUNE 30, 2009

CALIFORNIA LEGISLATURE—2009–10 THIRD EXTRAORDINARY SESSION

**ASSEMBLY BILL**

**No. 33**

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**Introduced by Assembly Member Villines**  
**(Coauthors: Assembly Members Adams, Bill Berryhill, Duvall,**  
**Emmerson, Fletcher, Gilmore, Hagman, Jeffries, Knight, Niello,**  
**and Smyth)**

May 5, 2009

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An act to amend Section 1250.310 of the Code of Civil Procedure, to amend Section 14074 of the Corporations Code, to repeal Sections 17925 and 41304 of, and to repeal Part 10.7 (commencing with Section 17910) of Division 1 of Title 1 of, the ~~Education Code~~, to amend Sections ~~32320, 32321, 32322, 32940, and 32942~~ of, and to repeal Section ~~32208~~ of, the ~~Financial Code~~, to amend *Education Code*, to amend Section *32940* of the *Financial Code*, to amend Sections 9100 and 9101 of the Fish and Game Code, to amend Sections 11041, 11550, 11553, 11553.5, 12802.5, 12805, 14450, 14684, 14684.1, 15814.22, 15814.23, 15814.30, 15814.34, 16366.2, 16366.35, 16366.6, 16366.7, 16367.6, 66645, and 66646 of, to amend and renumber Section 15814.25 of, to amend, repeal, and add ~~Section~~ *Sections 12730 and 16367.5* of, to repeal Sections 16366.3, 16366.4, 16366.5, 16366.8, 16366.9, 16367.7, 16367.8, 16367.61, and 16367.65 of, and to repeal and add Section 16366.1 of, the Government Code, to amend Sections 3808, 3810, 3822, 3822.1, 3822.2, 4799.16, 6815.2, 14584, 21080, 25104, 25106, 25107, 25110, 25112, 25123, 25205, 25207, 25212, 25214, 25216, 25216.5, 25217.1, 25218, 25218.5, 25220, 25221, 25222, 25223, 25224, 25225, 25226, 25301, 25302, 25303, 25304, 25305, 25305.5,

25306, 25310, 25320, 25321, 25322, 25323, 25324, 25354, 25356, 25357, 25358, 25362, 25364, 25366, 25400, 25401, 25401.2, 25401.5, 25401.6, 25401.7, 25402, 25402.1, 25402.3, 25402.6, 25402.9, 25403, 25403.5, 25403.8, 25404, 25410.5, 25410.6, 25412, 25413, 25414, 25415, 25416, 25417, 25417.5, 25419, 25420, 25422, 25426, 25433.5, 25434, 25434.5, 25441, 25442, 25442.5, 25442.7, 25443, 25443.5, ~~25449~~, 25445, 25449.3, 25450, 25450.1, 25450.3, 25450.4, 25450.5, 25460, 25461, 25462, 25463, 25470, 25471, 25472, 25473, 25474, 25494, 25496, 25501, 25501.7, 25508, 25517, 25519, 25520, 25522, 25523, 25524.1, 25524.2, 25525, 25526, 25527, 25528, 25529, 25530, 25531, 25534, 25534.1, 25538, 25539, 25540, 25540.1, 25540.2, 25540.3, 25541, 25541.1, 25541.5, 25543, 25601, 25602, 25603, 25608, 25610, 25616, 25617, 25618, ~~25620~~, ~~25620.1~~, ~~25620.2~~, ~~25620.3~~, ~~25620.4~~, ~~25620.5~~, ~~25620.6~~, ~~25620.7~~, ~~25620.8~~, ~~25620.11~~, 25630, 25678, 25679, 25696, 25696.5, 25697, 25700, 25701, 25702, 25703, 25704, 25705, 25720, 25721, 25722, 25722.5, 25723, 25740.5, 25741, ~~25742~~, ~~25743~~, ~~25744~~, ~~25744.5~~, ~~25747~~, ~~25748~~, ~~25751~~, 25771, 25772, 25773, 25782, 25783, 25784, 25802, 25803, 25900, 25901, 25902, 25911, 25912, 25942, 25967, 25968, 26004, 26011.5, 26011.6, and 30404 of, to amend the heading of Chapter 3 (commencing with Section 25200) of Division 15 of, to add Sections 3806.5, 25104.1, 25104.2, 25205.5, 25207.5, 25208, 25544, and 25545 to, to amend and repeal Section ~~25445~~ ~~25449~~ of, to add Chapter 3.5 (commencing with Section 25227) to Division 15 of, *to add Chapter 5.10 (commencing with Section 25499) to Division 15 of*, to repeal Sections 3805.5, 25113, 25217, 25217.5, 25502, 25503, 25504, 25504.5, 25505, 25506, 25506.5, 25507, 25509, 25509.5, 25510, 25511, 25512, 25512.5, 25513, 25514, 25514.3, 25514.5, 25515, 25516, 25516.1, 25516.5, 25516.6, 25520.5, 25524.5, 25540.4, 25540.6, and 25603.5 of, to repeal Article 3 (commencing with Section 25435) of Chapter 5.3 of Division 15 of, and to repeal and add Sections 25120, 25200, 25201, 25202, 25203, 25204, 25206, and 25219 of, the Public Resources Code, to amend Sections 332.1, 348, ~~352~~, 353.7, 366.1, 366.2, 384, 398.2, 398.3, 398.5, 399.2.5, 399.8, 399.11, 399.12, 399.12.5, 399.13, 399.15, 399.16, 399.17, 454.5, 464, 848.1, *1001*, 1731, 1768, 1822, 2774.6, 2826.5, ~~2827~~, ~~3302~~, ~~3310~~, ~~3320~~, ~~3330~~, ~~3341~~, ~~3341.1~~, ~~3341.2~~, ~~3345~~, ~~3370~~, and 2827, and 9502 of, to amend, repeal, and add Section 399.2.5 of, to add Sections 322, 345.1, and ~~345.2~~ *345.2*, and *411* to, to repeal Sections 346, 350, 360, 365, ~~3325~~, ~~3326~~, and ~~3327~~ of, of, and to repeal Article 2 (commencing with Section 334) of Chapter 2.3 of Part 1 of Division 1 of, and to repeal

and add Section 3340 of, the Public Utilities Code, and to amend Section 80000 of, and to add Sections 80001 and 80001.5 to, the Water Code, relating to energy.

LEGISLATIVE COUNSEL'S DIGEST

AB 33, as amended, Villines. Energy: commission and department.

(1) Existing law establishes the State Energy Resources Conservation and Development Commission, ~~the California Consumer Power and Conservation Financing Authority~~, and the Electricity Oversight Board with jurisdiction related to energy matters. Existing law provides the Public Utilities Commission with jurisdiction over the certification of natural gas and electric facilities. Existing law also provides the Office of Planning and Research, ~~the Department of Water Resources~~, the Department of General Services, and the Office of the State Architect with jurisdiction over certain energy-related matters. Existing law provides the State Energy Resources Conservation and Development Commission with the jurisdiction over the certification of thermal powerplants.

This bill would abolish the State Energy Resources and Conservation Commission and the Electricity Oversight Board. The bill would create the Department of Energy, headed by a Secretary of Energy, and would create the California Energy Board and the Office of Energy Market Oversight within the department. The bill would provide for the creation of various divisions and subdivisions as deemed necessary by the secretary. The secretary would be appointed by, and hold office at the pleasure of, the Governor, subject to confirmation by the Senate. The bill would require the Governor to appoint the initial secretary by January 31, 2010. The bill would authorize the Governor to appoint an Assistant Secretary of Energy who would serve at the pleasure of the Governor. The bill would require the department to create a legal subcommittee comprised of specified members to develop a single statewide position on litigation concerning energy matters.

The bill would provide that the California Energy Board consists of the following members: the Secretary of Energy who would be the chair of the board, 4 members of the public with qualifications, as specified, appointed by the Governor and subject to confirmation by the Senate, the Secretary of the Natural Resources Agency, and the president of the California Public Utilities Commission. The Secretary of the Natural Resources Agency, and the president of the California Public Utilities

Commission would serve as an ex officio, nonvoting member members of the board. The bill would specify that the public members shall serve for a term of 4 years. The bill would require the board to nominate for appointment by the Governor a public adviser to the board who would serve for a 3-year term and may be removed upon the joint concurrence of 4 board members and the Governor.

The bill would vest the Office of Energy Market Oversight with the powers, duties, responsibilities, obligations, liabilities, and jurisdiction of the Electricity Oversight Board and add to the functions of the office.

The bill would vest the new department and the California Energy Board with the powers, duties, responsibilities, obligations, liabilities, jurisdiction, and rights and privileges of the State Energy Resources Conservation and Development Commission, as specified.

The bill would transfer the jurisdiction over the certification for electric facilities from the Public Utilities Commission of thermal powerplants, both thermal and grant jurisdiction over certification of specified solar nonthermal powerplants to the California Energy Board. The bill would also transfer jurisdiction of certain energy-related matters from the Office of Planning and Research, the Department of General Services, and the Office of the State Architect to the Department of Energy or the California Energy Commission, as specified. The bill would also rename the California Consumer Power and Conservation Authority Fund as the California Consumer Power and Conservation Financing Fund.

The bill would transfer, on and after January 1, 2013, all responsibilities with respect to the certification of certain electric transmission facilities from the Public Utilities Commission to the exclusive jurisdiction of the Secretary of Energy, in consultation with the California Energy Board. The bill would require the Department of Energy, on or before January 1, 2011, in consultation with the Public Utilities Commission and the Independent System Operator, to submit to the Governor and the Legislature a strategic plan identifying administrative and statutory measures that would improve the siting and licensing process for electric transmission lines.

(2) Existing law requires a person proposing to construct a thermal powerplant or electric transmission line on a site to submit to the State Energy Resources Conservation and Development Commission a notice of intention to file an application for the certification of the site.

This bill would repeal this requirement.

~~(3) Existing law prohibits, with specified exceptions, land use for a nuclear fission thermal powerplant unless the State Energy Resources Conservation and Development Commission certifies that specified conditions exist.~~

~~This bill would, instead, prohibit land use for a nuclear fission powerplant unless the California Energy Board certifies that specified conditions exist.~~

~~(4)~~

(3) Existing law prohibits the State Energy Resources Conservation and Development Commission from certifying a facility that adds generating capacity to a potential multiple facility site in excess of the maximum allowable capacity determined by the commission.

This bill would repeal this prohibition.

~~(5) The existing State Assistance Fund for Enterprise Act of 1989 establishes the State Assistance Fund for Enterprise, Business, and Industrial Development Corporation and provides that a member of the State Energy Resources Conservation and Development Commission is a member of the board of directors of the corporation.~~

~~This bill would eliminate the commission's membership on the board of directors of the corporation.~~

~~(6)~~

(4) Existing law requires the Department of Community Services and Development to administer federal funds for programs to provide energy assistance to qualified low-income households *and to administer the community services block grant program*. ~~Existing law requires the Department of Economic Opportunity to administer a comprehensive procedure to ensure that those funds are utilized productively and efficiently.~~

This bill would transfer the above-described duties and responsibilities of the Department of Community Services and Development, on and after January 1, 2013, and the Department of Economic Opportunity, on and after January 1, 2010, to the Department of Energy.

~~(7)~~

(5) Existing law establishes grant and loan programs to provide financial assistance to specified entities for constructing and retrofitting buildings to be more energy efficient.

This bill would require the Department of Finance to conduct an independent audit of those programs and to provide an audit report to the Legislature no later than March 1 of each year in which an appropriation has been made to implement those programs.

~~(8)~~

(6) Existing law established the Katz Safe Schoolbus Clean Fuel Efficiency Demonstration Program to assist local educational agencies in replacing older schoolbuses with schoolbuses meeting federal safety standards that operate with greater efficiency and fewer adverse air emissions.

This bill would repeal this program.

~~(9)~~

(7) Existing law establishes the Small Business Energy Efficient Refrigeration Program and the State Solar Medallion Passive Design Competition.

This bill would repeal the program and competition.

~~(10)~~

(8) The bill would make conforming changes in existing law.

~~(11)~~

(9) The California Constitution authorizes the Governor to declare a fiscal emergency and to call the Legislature into special session for that purpose. The Governor issued a proclamation declaring a fiscal emergency, and calling a special session for this purpose, on December 19, 2008.

This bill would state that it addresses the fiscal emergency declared by the Governor by proclamation issued on December 19, 2008, pursuant to the California Constitution.

~~(12)~~

(10) The bill would provide that the provisions of the bill are severable.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 1250.310 of the Code of Civil Procedure
- 2 is amended to read:
- 3 1250.310. The complaint shall contain all of the following:
- 4 (a) The names of all plaintiffs and defendants.
- 5 (b) A description of the property sought to be taken. The
- 6 description may, but is not required to, indicate the nature or extent
- 7 of the interest of the defendant in the property.
- 8 (c) If the plaintiff claims an interest in the property sought to
- 9 be taken, the nature and extent of the interest.

1 (d) A statement of the right of the plaintiff to take by eminent  
2 domain the property described in the complaint. The statement  
3 shall include:

4 (1) A general statement of the public use for which the property  
5 is to be taken.

6 (2) An allegation of the necessity for the taking as required by  
7 Section 1240.030; where the plaintiff is a public entity, a reference  
8 to its resolution of necessity; where the plaintiff is a quasi-public  
9 entity within the meaning of Section 1245.320, a reference to the  
10 resolution adopted pursuant to Article 3 (commencing with Section  
11 1245.310) of Chapter 4; where the plaintiff is a nonprofit hospital,  
12 a reference to the certificate required by Section 1260 of the Health  
13 and Safety Code; where the plaintiff is a public utility and relies  
14 on a certification of the California Energy Board or a requirement  
15 of the California Energy Board that development rights be acquired,  
16 a reference to that certification or requirement.

17 (3) A reference to the statute that authorizes the plaintiff to  
18 acquire the property by eminent domain. Specification of the  
19 statutory authority may be in the alternative and may be  
20 inconsistent.

21 (e) A map or diagram portraying as far as practicable the  
22 property described in the complaint and showing its location in  
23 relation to the project for which it is to be taken.

24 SEC. 2. Section 14074 of the Corporations Code is amended  
25 to read:

26 14074. The agency shall enter into an agreement with the  
27 Department of Energy to assist small business owners in reducing  
28 their energy costs through low interest loans and by providing  
29 assistance and information.

30 SEC. 3. Part 10.7 (commencing with Section 17910) of  
31 Division 1 of Title 1 of the Education Code is repealed.

32 SEC. 4. Section 17925 of the Education Code is repealed.

33 SEC. 5. Section 41304 of the Education Code is repealed.

34 ~~SEC. 12. Section 32208 of the Financial Code is repealed.~~

35 ~~SEC. 13. Section 32320 of the Financial Code is amended to~~  
36 ~~read:~~

37 ~~32320. Except as provided in Sections 32325 and 32352.5, the~~  
38 ~~board of directors of the corporation shall consist of five members;~~  
39 ~~one official and four public directors.~~

1 ~~SEC. 14.~~ Section 32321 of the Financial Code is amended to  
2 read:

3 ~~32321. (a) The official member of the board shall be a member~~  
4 ~~of the Governor's cabinet, or his or her designee.~~

5 ~~(b) The public members of the board shall be:~~

6 ~~(1) One member selected and appointed by the Senate~~  
7 ~~Committee on Rules.~~

8 ~~(2) One member selected and appointed by the Speaker of the~~  
9 ~~Assembly.~~

10 ~~(3) Two members selected and appointed by the Governor as~~  
11 ~~follows:~~

12 ~~(A) One member with a minimum three years' experience as~~  
13 ~~an owner, partner, officer, or employee of a California-based small~~  
14 ~~business.~~

15 ~~(B) One member with a minimum three years' experience as~~  
16 ~~an officer or employee of a financial institution.~~

17 ~~SEC. 15.~~ Section 32322 of the Financial Code is amended to  
18 read:

19 ~~32322. (a) The term of the official member of the board shall~~  
20 ~~coincide with his or her official term of office.~~

21 ~~(b) The public members of the board shall be appointed by the~~  
22 ~~Senate Committee on Rules, Speaker, and Governor in such a~~  
23 ~~manner that they shall hold office for overlapping terms. At the~~  
24 ~~time of the appointment of first directors, the first term of the~~  
25 ~~directors appointed by the Senate Committee on Rules and Speaker~~  
26 ~~shall be approximately two years. At the time of the appointment~~  
27 ~~of first directors, the first term of the directors appointed by the~~  
28 ~~Governor shall be approximately one year for one director and~~  
29 ~~approximately three years for two directors. Thereafter, the terms~~  
30 ~~of all public directors shall be three years. Directors shall be~~  
31 ~~eligible for reappointment for an unlimited number of terms.~~

32 ~~(c) A public director's tenure shall continue until his successor~~  
33 ~~has been appointed and has taken his position on the board.~~

34 ~~(d) In the case of public members, vacancies shall be filled by~~  
35 ~~appointment of the respective appointing authority for the~~  
36 ~~unexpired remainder of the term.~~

37 ~~SEC. 16.~~ Section 32940 of the Financial Code is amended to  
38 read:

39 ~~32940. Guidelines for approving loan applications shall be~~  
40 ~~developed by the board on or before May 1, 1987. In developing~~

1 those guidelines, the board shall incorporate the recommendations  
2 adopted by the Department of Energy with respect to technical  
3 criteria that are to be applied to projects receiving loans from the  
4 corporation pursuant to this chapter. The corporation may contract  
5 with the Department of Energy for the purpose of developing  
6 technical guidelines.

7 ~~SEC. 17. Section 32942 of the Financial Code is amended to~~  
8 ~~read:~~

9 ~~32942. Loans shall be approved according to criteria established~~  
10 ~~by a credit committee, chaired by the chief financial officer of the~~  
11 ~~corporation or that officer's designee. The other members of the~~  
12 ~~committee shall be the member of the board appointed by the~~  
13 ~~Department of Energy and the corporate president.~~

14 SEC. 18. Section 9100 of the Fish and Game Code is amended  
15 to read:

16 9100. The Department of Energy shall implement a revolving  
17 loan fund program to assist low-income fishing fleet operators to  
18 reduce their energy costs and conserve fuel by providing  
19 low-interest loans to those operators.

20 SEC. 19. Section 9101 of the Fish and Game Code is amended  
21 to read:

22 9101. Commencing January 1, 1994, and thereafter biennially,  
23 the Department of Energy shall report to the Legislature on the  
24 status of the loan program, including the number and the amounts  
25 of loans made, the amount of loans repaid, and a comparison of  
26 the ethnic background of the loan recipients with the ethnic  
27 background of the low-income fishing fleet operators.

28 SEC. 19.2. Section 11041 of the Government Code is amended  
29 to read:

30 11041. (a) Sections 11042 and 11043 do not apply to the  
31 Regents of the University of California, the Trustees of the  
32 California State University, Legal Division of the Department of  
33 Transportation, Division of Labor Standards Enforcement of the  
34 Department of Industrial Relations, Workers' Compensation  
35 Appeals Board, Public Utilities Commission, Department of  
36 Energy, State Compensation Insurance Fund, Legislative Counsel  
37 Bureau, Inheritance Tax Department, Secretary of State, State  
38 Lands Commission, Alcoholic Beverage Control Appeals Board  
39 (except when the board affirms the decision of the Department of  
40 Alcoholic Beverage Control), State Department of Education, and

1 Treasurer with respect to bonds, nor to any other state agency  
 2 which, by law enacted after Chapter 213 of the Statutes of 1933,  
 3 is authorized to employ legal counsel.

4 (b) The Trustees of the California State University shall pay the  
 5 cost of employing legal counsel from their existing resources.

6 SEC. 19.5. Section 11550 of the Government Code is amended  
 7 to read:

8 11550. (a) Effective January 1, 1988, an annual salary of  
 9 ninety-one thousand fifty-four dollars (\$91,054) shall be paid to  
 10 each of the following:

- 11 (1) Director of Finance.
- 12 (2) Secretary of Business, Transportation and Housing.
- 13 (3) Secretary of the Resources Agency.
- 14 (4) Secretary of California Health and Human Services.
- 15 (5) Secretary of State and Consumer Services.
- 16 (6) Commissioner of the California Highway Patrol.
- 17 (7) Secretary of the Department of Corrections and  
 18 Rehabilitation.
- 19 (8) Secretary of Food and Agriculture.
- 20 (9) Secretary of Veterans Affairs.
- 21 (10) Secretary of Labor and Workforce Development.
- 22 (11) State Chief Information Officer.
- 23 (12) Secretary for Environmental Protection.
- 24 (13) Secretary of California Emergency Management.
- 25 (14) Secretary of Energy.

26 (b) The annual compensation provided by this section shall be  
 27 increased in any fiscal year in which a general salary increase is  
 28 provided for state employees. The amount of the increase provided  
 29 by this section shall be comparable to, but shall not exceed, the  
 30 percentage of the general salary increases provided for state  
 31 employees during that fiscal year.

32 SEC. 20. Section 11553 of the Government Code is amended  
 33 to read:

34 11553. (a) Effective January 1, 1988, an annual salary of  
 35 eighty-one thousand six hundred thirty-five dollars (\$81,635) shall  
 36 be paid to each of the following:

- 37 (1) Chairperson of the Unemployment Insurance Appeals Board.
- 38 (2) Chairperson of the Agricultural Labor Relations Board.
- 39 (3) President of the Public Utilities Commission.
- 40 (4) Chairperson of the Fair Political Practices Commission.

1 (5) Chairperson of the Public Employment Relations Board.

2 (6) Chairperson of the Workers' Compensation Appeals Board.

3 (7) Administrative Director of the Division of Industrial  
4 Accidents.

5 (8) Chairperson of the State Water Resources Control Board.

6 (b) The annual compensation provided by this section shall be  
7 increased in any fiscal year in which a general salary increase is  
8 provided for state employees. The amount of the increase provided  
9 by this section shall be comparable to, but shall not exceed, the  
10 percentage of the general salary increases provided for state  
11 employees during that fiscal year.

12 (c) Notwithstanding subdivision (b), any salary increase is  
13 subject to Section 11565.5.

14 SEC. 20.5. Section 11553.5 of the Government Code is  
15 amended to read:

16 11553.5. (a) Effective January 1, 1988, an annual salary of  
17 seventy-nine thousand one hundred twenty-two dollars (\$79,122)  
18 shall be paid to the following:

19 (1) Member of the Agricultural Labor Relations Board.

20 (2) Member of the California Energy Board.

21 (3) Member of the Public Utilities Commission.

22 (4) Member of the Public Employment Relations Board.

23 (5) Member of the Unemployment Insurance Appeals Board.

24 (6) Member of the Workers' Compensation Appeals Board.

25 (7) Member of the State Water Resources Control Board.

26 (b) The annual compensation provided by this section shall be  
27 increased in any fiscal year in which a general salary increase is  
28 provided for state employees. The amount of the increase provided  
29 by this section shall be comparable to, but shall not exceed, the  
30 percentage of the general cost-of-living salary increases provided  
31 for state employees during that fiscal year.

32 (c) Notwithstanding subdivision (b), any salary increase is  
33 subject to Section 11565.5.

34 SEC. 20.7. Section 12730 of the Government Code is amended  
35 to read:

36 12730. For the purposes of this chapter, the following  
37 definitions apply:

38 (a) "Community Services Block Grant" refers to the federal  
39 funds and program established by the federal Community Services  
40 Block Grant Program in the Omnibus Budget Reconciliation Act

1 of 1981, as contained in Public Law 97-35, as that law has been  
2 amended from time to time and as currently codified as Section  
3 9901 et seq. of Title 42 of the United States Code.

4 (b) “Contract” means the written document incorporating the  
5 terms and conditions under which the department agrees to provide  
6 financial assistance to an eligible entity. Upon its cosigning by  
7 authorized agents of the department and the eligible entity, and  
8 subsequent approval by the Department of General Services  
9 pursuant to Section 10295 of the Public Contract Code, a contract  
10 shall be deemed to be valid and enforceable.

11 (c) “Director” means the Director of Community Services and  
12 Development.

13 (d) “Delegate agency” or “subcontractor” means a private  
14 nonprofit organization or public agency that operates one or more  
15 projects funded under this chapter pursuant to a contractual  
16 agreement with an eligible entity.

17 (e) “Department” means the Department of Community Services  
18 and Development established pursuant to Article 8 (commencing  
19 with Section 12085) of Chapter 1.

20 (f) “Designation” means the formal selection of a proposed  
21 community action agency by the director, as provided in Section  
22 12750.1.

23 (g) “Eligible entity” means an agency or organization, as defined  
24 in Section 9902 of Title 42 of the United States Code, as amended,  
25 and may include a private nonprofit organization or public agency  
26 that operates one or more projects funded under this chapter  
27 pursuant to a contract with the department.

28 (h) “Eligible beneficiaries” means all of the following:

29 (1) All individuals living in households with incomes not to  
30 exceed the official poverty line according to the poverty guidelines  
31 updated periodically in the Federal Register by the United States  
32 Department of Health and Human Services, as defined in Section  
33 9902 of Title 42 of the United States Code, as amended.

34 (2) All individuals eligible to receive Temporary Assistance for  
35 Needy Families under the state’s plan approved under Public Law  
36 104-193, the Personal Responsibility and Work Opportunity  
37 Reconciliation Act of 1996, and (Chapter 2 (commencing with  
38 Section 11200) of Part 3 of Division 9 of the Welfare and  
39 Institutions Code) or assistance under Part A of Title IV of the  
40 Social Security Act (42 U.S.C. Sec. 601 et seq.).

1 (3) Residents of a target area or members of a target group  
2 having a measurably high incidence of poverty and that is the  
3 specific focus of a project financed under this chapter.

4 (i) “Financial assistance” means money provided by the  
5 department to an eligible entity, pursuant to an approved contract,  
6 in order to enable the eligible entity to accomplish its planned and  
7 approved work program.

8 (j) “Political subdivision” shall generally be deemed to mean  
9 county government, with the following exceptions:

10 (1) In any county that, prior to October 1, 1981, had more than  
11 one designated community action agency, each unit of local  
12 government that contained a designated community action agency  
13 shall continue to operate as a “political subdivision” under this  
14 chapter.

15 (2) Any county having fewer than 50,000 population according  
16 to the most recent census available may be deemed by the  
17 department to be part of a larger “political subdivision” comprising  
18 two or more counties if the department determines that to do so  
19 would best serve the purposes of this chapter, and may participate  
20 in the designation process for a multicounty community action  
21 agency.

22 (k) “Secretary” means the Secretary of the United States  
23 Department of Health and Human Services.

24 (l) “Standards of effectiveness” are the general standards,  
25 derived from the purposes of this chapter and the assurances and  
26 certifications made by the state to the secretary in the state plan,  
27 as further stated in subdivision (g) of Section 12745, and as they  
28 may be more specifically defined in regulation, toward which all  
29 programs and projects funded under this chapter shall be directed  
30 and against which they will be assessed.

31 (m) “State plan” means the plan required to be submitted to the  
32 secretary to secure California’s allotment of Community Services  
33 Block Grant funds, which shall be prepared and reviewed pursuant  
34 to the requirements of this chapter.

35 (n) “Uncapped area” means any county or portion of a county  
36 for which no community action agency has been designated and  
37 recognized.

38 (o) *This section shall remain in effect only until January 1, 2013,*  
39 *and as of that date is repealed, unless a later enacted statute, that*  
40 *is enacted before January 1, 2013, deletes or extends that date.*

1 SEC. 20.8. Section 12730 is added to the Government Code,  
2 to read:

3 12730. For the purposes of this chapter, the following  
4 definitions apply:

5 (a) “Community Services Block Grant” refers to the federal  
6 funds and program established by the federal Community Services  
7 Block Grant Program in the Omnibus Budget Reconciliation Act  
8 of 1981, as contained in Public Law 97-35, as that law has been  
9 amended from time to time and as currently codified as Section  
10 9901 et seq. of Title 42 of the United States Code.

11 (b) “Contract” means the written document incorporating the  
12 terms and conditions under which the department agrees to provide  
13 financial assistance to an eligible entity. Upon its cosigning by  
14 authorized agents of the department and the eligible entity, and  
15 subsequent approval by the Department of General Services  
16 pursuant to Section 10295 of the Public Contract Code, a contract  
17 shall be deemed to be valid and enforceable.

18 (c) “Director” means the Director of Community Services and  
19 Development.

20 (d) “Delegate agency” or “subcontractor” means a private  
21 nonprofit organization or public agency that operates one or more  
22 projects funded under this chapter pursuant to a contractual  
23 agreement with an eligible entity.

24 (e) “Department” means the Department of Community Services  
25 and Development established pursuant to Article 8 (commencing  
26 with Section 12085) of Chapter 1.

27 (f) “Designation” means the formal selection of a proposed  
28 community action agency by the director, as provided in Section  
29 12750.1.

30 (g) “Eligible entity” means an agency or organization, as  
31 defined in Section 9902 of Title 42 of the United States Code, as  
32 amended, and may include a private nonprofit organization or  
33 public agency that operates one or more projects funded under  
34 this chapter pursuant to a contract with the department.

35 (h) “Eligible beneficiaries” means all of the following:

36 (1) All individuals living in households with incomes not to  
37 exceed the official poverty line according to the poverty guidelines  
38 updated periodically in the Federal Register by the United States  
39 Department of Health and Human Services, as defined in Section  
40 9902 of Title 42 of the United States Code, as amended.

1 (2) All individuals eligible to receive Temporary Assistance for  
2 Needy Families under the state’s plan approved under Public Law  
3 104-193, the Personal Responsibility and Work Opportunity  
4 Reconciliation Act of 1996, and (Chapter 2 (commencing with  
5 Section 11200) of Part 3 of Division 9 of the Welfare and  
6 Institutions Code) or assistance under Part A of Title IV of the  
7 Social Security Act (42 U.S.C. Sec. 601 et seq.).

8 (3) Residents of a target area or members of a target group  
9 having a measurably high incidence of poverty and that is the  
10 specific focus of a project financed under this chapter.

11 (i) “Financial assistance” means money provided by the  
12 department to an eligible entity, pursuant to an approved contract,  
13 in order to enable the eligible entity to accomplish its planned and  
14 approved work program.

15 (j) “Political subdivision” shall generally be deemed to mean  
16 county government, with the following exceptions:

17 (1) In any county that, prior to October 1, 1981, had more than  
18 one designated community action agency, each unit of local  
19 government that contained a designated community action agency  
20 shall continue to operate as a “political subdivision” under this  
21 chapter.

22 (2) Any county having fewer than 50,000 population according  
23 to the most recent census available may be deemed by the  
24 department to be part of a larger “political subdivision”  
25 comprising two or more counties if the department determines that  
26 to do so would best serve the purposes of this chapter, and may  
27 participate in the designation process for a multicounty community  
28 action agency.

29 (k) “Secretary” means the Secretary of the United States  
30 Department of Health and Human Services.

31 (l) “Standards of effectiveness” are the general standards,  
32 derived from the purposes of this chapter and the assurances and  
33 certifications made by the state to the secretary in the state plan,  
34 as further stated in subdivision (g) of Section 12745, and as they  
35 may be more specifically defined in regulation, toward which all  
36 programs and projects funded under this chapter shall be directed  
37 and against which they will be assessed.

38 (m) “State plan” means the plan required to be submitted to  
39 the secretary to secure California’s allotment of Community

1 *Services Block Grant funds, which shall be prepared and reviewed*  
2 *pursuant to the requirements of this chapter.*

3 (n) *“Uncapped area” means any county or portion of a county*  
4 *for which no community action agency has been designated and*  
5 *recognized.*

6 (o) *This section shall become operative on January 1, 2013.*

7 SEC. 21. Section 12802.5 of the Government Code is amended  
8 to read:

9 12802.5. The Governor may, with respect to the Natural  
10 Resources Agency, appoint a Deputy Secretary for Energy Matters  
11 who may serve as Secretary of the Natural Resources Agency  
12 designee on the California Energy ~~Commission~~ *Board* and appoint  
13 an Assistant Secretary for Coastal Matters who may serve as  
14 Secretary of the Natural Resources Agency designee on the  
15 California Coastal Commission.

16 SEC. 22. Section 12805 of the Government Code, as amended  
17 by Section 2 of Chapter 21 of the Statutes of 2009, is amended to  
18 read:

19 12805. (a) The Resources Agency is hereby renamed the  
20 Natural Resources Agency. The Natural Resources Agency consists  
21 of the departments of Forestry and Fire Protection, Conservation,  
22 Fish and Game, Boating and Waterways, Parks and Recreation,  
23 Resources Recycling and Recovery, and Water Resources; the  
24 State Lands Commission; the Colorado River Board; the San  
25 Francisco Bay Conservation and Development Commission; the  
26 Central Valley Flood Protection Board; the Wildlife Conservation  
27 Board; the Delta Protection Commission; the Native American  
28 Heritage Commission; the California Conservation Corps; the  
29 California Coastal Commission; the State Coastal Conservancy;  
30 the California Tahoe Conservancy; the Santa Monica Mountains  
31 Conservancy; the Coachella Valley Mountains Conservancy; the  
32 San Joaquin River Conservancy; the San Gabriel and Lower Los  
33 Angeles Rivers and Mountains Conservancy; the Baldwin Hills  
34 Conservancy; the San Diego River Conservancy; and the Sierra  
35 Nevada Conservancy.

36 (b) No existing supplies, forms, insignias, signs, or logos shall  
37 be destroyed or changed as a result of changing the name of the  
38 Resources Agency to the Natural Resources Agency, and those  
39 materials shall continue to be used until exhausted or unserviceable.

1 SEC. 23. Section 14450 of the Government Code is amended  
2 to read:

3 14450. The department, in preparing its research and  
4 development program, shall consult with other parts of the  
5 transportation industry, including the private and public sectors,  
6 in order to obtain maximum input designed to develop a balanced  
7 multimodal research and development program. The department  
8 shall also consult with affected state agencies, including the  
9 Department of Motor Vehicles, the State Air Resources Board,  
10 the Department of Energy, and the Department of the California  
11 Highway Patrol.

12 SEC. 24. Section 14684 of the Government Code is amended  
13 to read:

14 14684. (a) The department, in consultation with the  
15 Department of Energy, shall ensure that solar energy equipment  
16 is installed, no later than January 1, 2007, on all state buildings  
17 and state parking facilities, where feasible. The department shall  
18 establish a schedule designating when solar energy equipment will  
19 be installed on each building and facility, with priority given to  
20 buildings and facilities where installation is most feasible, both  
21 for state building and facility use and consumption and local  
22 publicly owned electric utility use, where feasible.

23 (b) Solar energy equipment shall be installed where feasible as  
24 part of the construction of all state buildings and state parking  
25 facilities that commences after December 31, 2002.

26 (c) For purposes of this section, it is feasible to install solar  
27 energy equipment if adequate space on a building is available, and  
28 if the solar energy equipment is cost-effective.

29 (d) This section does not exempt the state from any applicable  
30 fee or requirement imposed by the Public Utilities Commission.

31 (e) The department may adopt regulations for the purposes of  
32 this section as emergency regulations in accordance with Chapter  
33 3.5 (commencing with Section 11340) of Part 1. For purposes of  
34 Chapter 3.5 (commencing with Section 11340) of Part 1, including,  
35 but not limited to, Section 11349.6, the adoption of the regulations  
36 shall be considered by the Office of Administrative Law to be  
37 necessary for the immediate preservation of the public peace,  
38 health, safety, and general welfare. Notwithstanding the 120-day  
39 limit specified in subdivision (e) of Section 11346.1, the regulations  
40 shall be repealed 180 days after their effective date, unless the

1 department complies with Chapter 3.5 (commencing with Section  
2 11340) of Part 1 as provided in subdivision (e) of Section 11346.1.

3 (f) For purposes of this section, the following terms have the  
4 following meanings:

5 (1) “Cost-effective” means that the present value of the savings  
6 generated over the life of the solar energy system, including  
7 consideration of the value of the energy produced during peak and  
8 off-peak demand periods and the value of a reliable energy supply  
9 not subject to price volatility, shall exceed the present value cost  
10 of the solar energy equipment by not less than 10 percent. The  
11 present value cost of the solar energy equipment does not include  
12 the cost of unrelated building components. The department, in  
13 making the present value assessment, shall obtain interest rates,  
14 discount rates, and consumer price index figures from the  
15 Treasurer, and shall take into consideration air emission reduction  
16 benefits.

17 (2) “Local publicly owned electric utility” means a local publicly  
18 owned electric utility as defined in Section 9604 of the Public  
19 Utilities Code.

20 (3) “Solar energy equipment” means equipment whose primary  
21 purpose is to provide for the collection, conversion, storage, or  
22 control of solar energy for electricity generation.

23 SEC. 25. Section 14684.1 of the Government Code is amended  
24 to read:

25 14684.1. (a) The department, in consultation with the  
26 Department of Energy, shall ensure that solar energy equipment  
27 is installed, no later than January 1, 2009, on all state buildings,  
28 state parking facilities, and state-owned swimming pools that are  
29 heated with fossil fuels or electricity, where feasible. The  
30 department shall establish a schedule designating when solar energy  
31 equipment will be installed on each building and facility, with  
32 priority given to buildings and facilities where installation is most  
33 feasible.

34 (b) Solar energy equipment shall be installed, where feasible,  
35 as part of the construction of all state buildings and state parking  
36 facilities for which construction commences on or after January  
37 1, 2008.

38 (c) For purposes of this section, it is feasible to install solar  
39 energy equipment if adequate space on or adjacent to a building

1 is available, if the solar energy equipment is cost-effective, and if  
2 funding is available from the state or another source.

3 (d) Any solar energy equipment installed pursuant to this section  
4 shall meet applicable standards and requirements imposed by state  
5 and local permitting authorities, including, but not limited to, all  
6 of the following:

7 (1) Certification by the Solar Rating and Certification  
8 Corporation, which is a nonprofit third party supported by the  
9 United States Department of Energy, or any other nationally  
10 recognized certification agency.

11 (2) All applicable safety and performance standards established  
12 by the National Electrical Code, the Institute of Electrical and  
13 Electronics Engineers, and accredited testing laboratories, such as  
14 the Underwriters Laboratories.

15 (3) Where applicable, the regulations adopted by the Public  
16 Utilities Commission regarding safety and reliability.

17 (e) This section does not exempt the state from the payment of  
18 any applicable fee or requirement imposed by the Public Utilities  
19 Commission.

20 (f) The department may adopt regulations for the purposes of  
21 this section as emergency regulations in accordance with Chapter  
22 3.5 (commencing with Section 11340) of Part 1. For purposes of  
23 that chapter, including, but not limited to, Section 11349.6, the  
24 adoption of the regulations shall be considered by the Office of  
25 Administrative Law to be necessary for the immediate preservation  
26 of the public peace, health, safety, and general welfare.  
27 Notwithstanding the 120-day limit specified in subdivision (e) of  
28 Section 11346.1, the regulations shall be repealed 180 days after  
29 their effective date, unless the department complies with Chapter  
30 3.5 (commencing with Section 11340) of Part 1 as provided in  
31 subdivision (e) of Section 11346.1.

32 (g) Any solar energy equipment installed pursuant to this section  
33 shall be subject to the provisions of the California Solar Rights  
34 Act of 1978 (Chapter 1154 of the Statutes of 1978), as amended.

35 (h) For purposes of this section, the following terms have the  
36 following meanings:

37 (1) “Cost-effective” means that the present value of the savings  
38 generated over the life of the solar energy system, including  
39 consideration of the value of the energy produced during peak and  
40 off-peak demand periods and the value of a reliable energy supply

1 not subject to price volatility, shall exceed the present value cost  
 2 of the solar energy equipment by not less than 10 percent. The  
 3 present value cost of the solar energy equipment does not include  
 4 the cost of unrelated building components. The department, in  
 5 making the present value assessment, shall obtain interest rates,  
 6 discount rates, and consumer price index figures from the  
 7 Treasurer, and shall take into consideration air emission reduction  
 8 benefits and the value of stable energy costs.

9 (2) “Local publicly owned electric utility” means a local publicly  
 10 owned electric utility as defined in subdivision (d) of Section 9604  
 11 of the Public Utilities Code.

12 (3) “Solar energy equipment” means equipment whose primary  
 13 purpose is to provide for the collection, conversion, storage, or  
 14 control of solar energy for the purpose of heat production,  
 15 electricity production, or simultaneous heat and electricity  
 16 production.

17 SEC. 26. Section 15814.22 of the Government Code is amended  
 18 to read:

19 15814.22. The Department of General Services, in consultation  
 20 with the Department of Energy and other state agencies and  
 21 departments, shall develop a multiyear plan, to be updated  
 22 biennially, with the goal of exploiting all practicable and  
 23 cost-effective energy efficiency measures in state facilities. The  
 24 department shall coordinate plan implementation efforts and make  
 25 recommendations to the Governor and the Legislature to achieve  
 26 energy efficiency goals for state facilities.

27 SEC. 27. Section 15814.23 of the Government Code is amended  
 28 to read:

29 15814.23. The Department of General Services or each state  
 30 agency having jurisdiction shall ensure that all new state buildings  
 31 are designed and constructed to meet at least the minimum energy  
 32 efficiencies specified in standards adopted by the Department of  
 33 Energy pursuant to Section 25402 of the Public Resources Code.  
 34 In the design and construction of new state buildings, the  
 35 department or other responsible state agency shall also consider  
 36 additional state-of-the-art energy efficiency design measures and  
 37 equipment, beyond those required by the standards, that are  
 38 cost-effective and feasible.

1 SEC. 28. Section 15814.25 of the Government Code, as  
2 amended by Section 48 of Chapter 193 of the Statutes of 2004, is  
3 amended and renumbered to read:

4 15814.24.1. Energy conservation measures eligible for  
5 financing by kindergarten through grade 12 schools shall be limited  
6 to those measures recommended pursuant to an energy audit  
7 provided by the Department of Energy under its existing authority.

8 SEC. 29. Section 15814.30 of the Government Code is amended  
9 to read:

10 15814.30. (a) All new public buildings for which construction  
11 begins after January 1, 1993, shall be models of energy efficiency  
12 and shall be designed, constructed, and equipped with all energy  
13 efficiency measures, materials, and devices that are feasible and  
14 cost-effective over the life of the building or the life of the energy  
15 efficiency measure, whichever is less.

16 (b) In determining which energy efficiency measures, materials,  
17 and devices are feasible and cost-effective over the life of the  
18 building, the State Architect and the Department of General  
19 Services shall consult with the Department of Energy.

20 (c) For purposes of this section, “cost-effective” means that  
21 savings generated over the life of the building or the life of the  
22 energy efficiency measure, whichever is less, shall exceed the cost  
23 of purchasing and installing the energy efficiency measures,  
24 materials, or devices by not less than 10 percent.

25 SEC. 30. Section 15814.34 of the Government Code is amended  
26 to read:

27 15814.34. (a) The Legislature finds and declares all of the  
28 following:

29 (1) The state purchases a number of commodities, including,  
30 but not limited to, lighting fixtures, heating, ventilation and  
31 air-conditioning units, and copiers, that cumulatively account for  
32 a significant portion of the energy consumed by state operations.

33 (2) The state can realize significant energy savings and reduced  
34 energy costs by purchasing brands or models of commonly used  
35 commodities with low life cycle costs.

36 (3) Commodities necessary for state operations may be  
37 purchased directly by the state department or agency using the  
38 commodity, or may be purchased by the Department of General  
39 Services on behalf of other state departments or agencies.

1 (4) In order to increase energy efficiency and reduce costs to  
2 the taxpayers of the state, the state should make every reasonable  
3 effort to identify and purchase those commodities that have the  
4 lowest life cycle cost and meet the operational requirements of the  
5 state.  
6 (b) The Department of General Services shall, on an ongoing  
7 basis, do all of the following:  
8 (1) Identify commodities purchased by the department that,  
9 individually or on a statewide basis, consume a significant amount  
10 of energy.  
11 (2) For each commodity identified pursuant to paragraph (1),  
12 determine the life cycle cost of the following:  
13 (A) The brand or model of the commodity purchased by the  
14 department.  
15 (B) The brand or model of the commodity that has the lowest  
16 life cycle cost, provided it is available for purchase by the state  
17 and meets all operational specifications of the state.  
18 (3) Consult with the Department of Energy in the development  
19 and revision of one or more methods of determining the life cycle  
20 costs of commodities.  
21 (c) In order to assist other agencies and departments in  
22 identifying commodities with the lowest life cycle costs, the  
23 Department of General Services shall distribute the following to  
24 all state agencies and departments:  
25 (1) A list of those commodities with the lowest life cycle costs,  
26 as determined pursuant to paragraph (2) of subdivision (b).  
27 (2) The method or methods used by the Department of General  
28 Services to determine the life cycle costs of commodities.  
29 (d) The method or methods used by the Department of General  
30 Services to calculate the life cycle costs of commodities shall be  
31 designed to be easily understood and used by purchasing agents  
32 and other personnel in making purchasing decisions.  
33 (e) Notwithstanding any other provision of law, all state agencies  
34 and departments shall purchase those commodities identified  
35 pursuant to subdivision (b) that have the lowest life cycle costs  
36 and that meet the applicable specifications, and shall make every  
37 reasonable effort to identify and purchase other commodities with  
38 the lowest life cycle costs.  
39 (f) “Life cycle cost” for the purposes of this section, means the  
40 total cost of purchasing, installing, maintaining, and operating a

1 device or system during its reasonably expected life. It includes,  
2 but is not necessarily limited to, capital costs, labor costs, energy  
3 costs, and operating and maintenance costs.

4 SEC. 30.1. Section 16366.1 of the Government Code is  
5 repealed.

6 SEC. 30.2. Section 16366.1 is added to the Government Code,  
7 to read:

8 16366.1. The Legislature finds and declares all of the following:

9 (a) For over 30 years, the federal government has funded  
10 programs that help low-income households meet the rising costs  
11 of utilities, including electricity, gas, and other household fuels,  
12 through block grants and other targeted funding that lowers the  
13 energy burden and increases the energy-related health and safety  
14 of low-income housing.

15 (b) In California, it is calculated that low-income families spend  
16 up to 16 percent of their household income on utilities, as compared  
17 to 5 percent of the household income of median income families.

18 (c) The increased energy burden for low-income families often  
19 results in vulnerable populations making tough choices between  
20 essential costs, such as food, transportation, and heating or cooling  
21 their home in a safe manner.

22 (d) Since 1975, California has administered the state's share of  
23 these federal programs, including the Low-Income Home Energy  
24 Assistance Program Block Grant (LIHEAP), provided for pursuant  
25 to the Low-Income Home Energy Assistance Act of 1981, as  
26 amended (42 U.S.C. Sec. 8621 et seq.), and the United States  
27 Department of Energy Weatherization Assistance Program (DOE  
28 WAP), provided for pursuant to Title IV of the Energy  
29 Conservation and Production Act (Public Law 94-385, as amended)  
30 and pursuant to the United States Housing and Urban Development  
31 Residential Lead-Based Paint Hazard Reduction Act of 1992  
32 (Public Law 102-550, as amended), in conjunction with other  
33 federal and state antipoverty programs that assist low-income  
34 families with achieving self-sufficiency.

35 (e) California has embarked on a new era of leadership to  
36 achieve ambitious energy goals including energy conservation and  
37 efficiency, alternative fuels, and reduce carbon emissions. A critical  
38 pathway to achieving these goals is the strategic reorganization  
39 and consolidation of various energy-related programs, to maximize

1 the outcomes of those individual programs in support of the state’s  
 2 energy plans.

3 (f) Consolidating the state’s federally funded low-income energy  
 4 programs in a new Department of Energy can assist the state with  
 5 achieving the objectives of the state’s energy plans through the  
 6 quantification of the energy conserved and carbon emissions  
 7 reduced as a result of the low-income weatherization activities.

8 (g) The funds from the federal American Recovery and  
 9 Reinvestment Act of 2009 (Public Law 111-5) are appropriated  
 10 to the Department of Community Services and Development to  
 11 implement the state’s federally funded low-income energy  
 12 programs.

13 (h) By reorganizing the state’s low-income energy programs,  
 14 including LIHEAP and DOE WAP, into the new Department of  
 15 Energy, it is the intent of the Legislature to support the  
 16 accomplishment of the state’s energy plans, while not diminishing  
 17 or sacrificing the primary federal purposes of these programs that  
 18 are all of the following:

19 (1) Assist low-income households with reducing their energy  
 20 burden through cash assistance and weatherization.

21 (2) Prioritize the needs of vulnerable populations including the  
 22 elderly, families with young children, and people dependent on  
 23 electrical medical equipment.

24 (3) Help low-income families achieve self sufficiency.

25 (i) It is the intent of the Legislature to have the Department of  
 26 Community Services and Development administer the federal  
 27 low-income energy programs through December 31, 2012, to  
 28 ensure continuous allocation and distribution of funds from the  
 29 federal American Recovery and Reinvestment Act of 2009. After  
 30 that date, the federally funded low-income energy programs should  
 31 be administered by the Department of Energy.

32 SEC. 30.3. Section 16366.2 of the Government Code is  
 33 amended to read:

34 16366.2. As used in this article “local service provider” means  
 35 a public or private nonprofit entity, as defined by federal law and  
 36 regulation, that provides service directly to eligible beneficiaries.

37 SEC. 30.4. Section 16366.3 of the Government Code is  
 38 repealed.

39 SEC. 30.5. Section 16366.35 of the Government Code is  
 40 amended to read:

1 16366.35. Local service providers designated by the state shall  
2 be granted maximum flexibility in administering federal categorical  
3 and block grant programs to the extent permitted by state planning  
4 requirements. It is the intent of the Legislature in enacting this  
5 section to provide local service providers maximum flexibility in  
6 setting priorities in these programs for any reduced funding  
7 consistent with federal and state law and policy.

8 SEC. 30.6. Section 16366.4 of the Government Code is  
9 repealed.

10 SEC. 30.7. Section 16366.5 of the Government Code is  
11 repealed.

12 SEC. 30.8. Section 16366.6 of the Government Code is  
13 amended to read:

14 16366.6. (a) The funds shall be used to serve beneficiaries and  
15 households, as defined in the federal laws and regulations  
16 establishing the block grant programs or as further defined in this  
17 chapter.

18 (b) Federal funds shall be received by the Controller and held  
19 in a separate account of the federal trust fund in accordance with  
20 state law governing the administration of federal funds.

21 (c) The funds shall be disbursed to 1980–81 fiscal year grantees  
22 of categorical grant programs consolidated into the federal block  
23 grants in an amount which reflects the overall change in federal  
24 categorical funds which were available in the 1980–81 federal  
25 fiscal year.

26 SEC. 30.9. Section 16366.7 of the Government Code is  
27 amended to read:

28 16366.7. Notwithstanding any other provision of law:

29 (a) All state agencies, offices, or departments administering  
30 federal block grant funds shall have the authority, subject to the  
31 approval of the Department of Finance, to grant advance payments  
32 of federal funds to contractors or local governmental agencies in  
33 any amounts as the administering state department deems necessary  
34 for startup or continued provision of services or program operation.

35 (b) Departmental service contracts utilizing federal block grant  
36 funds shall be exempt from approval by the Department of Finance  
37 and the State Department of General Services prior to their  
38 execution. Instead, the proper state fiscal controls over federal  
39 block grant funds shall be insured by all of the following  
40 provisions:

1 (1) State departments that award block grant funds to local  
2 agencies shall permit, as appropriate, to the extent that federal  
3 funds are available for this purpose, local agencies to provide for  
4 federally mandated financial and compliance audits of block grant  
5 awards in accordance with the federal audit provisions and  
6 standards promulgated by the Comptroller General of the United  
7 States, and consistent with the department's approved audit plan.

8 (2) The Department of Finance, in consultation with the  
9 Controller, shall establish fiscal reporting requirements for the  
10 departments to use on a quarterly basis with all providers.

11 (3) In the event a contractor has not engaged in a contract for  
12 these program purposes before with the state, state administering  
13 departments shall have the authority to conduct a preaudit or fund  
14 a preaudit by the Controller in order to certify the ability of the  
15 contractor to administer the funds.

16 (4) The State Auditor shall provide audit findings regarding  
17 each block grant to the Legislature no later than May 1 of each  
18 year.

19 (c) Each administering state department shall develop standard  
20 definitions for units of service, costs per unit of service, citizen  
21 participation processes, and due process notification for clients in  
22 relation to diminishing federal funds and shall incorporate all of  
23 these elements into each agreement or contract.

24 (d) Compliance with this section shall be consistent with federal  
25 policies and procedures. Reports required under this section shall  
26 be combined, where practical, with any other similar reports  
27 required by the Legislature and by the federal government.

28 SEC. 30.10. Section 16366.8 of the Government Code is  
29 repealed.

30 SEC. 30.11. Section 16366.9 of the Government Code is  
31 repealed.

32 SEC. 30.12. Section 16367.5 of the Government Code is  
33 amended to read:

34 16367.5. The Department of Community Services and  
35 Development shall receive and administer the federal Low-Income  
36 Home Energy Assistance Program Block Grant, provided for  
37 pursuant to the Low-Income Home Energy Assistance Act of 1981,  
38 as amended (42 U.S.C. Sec. 8621 et seq.). The department shall  
39 afford local service providers maximum flexibility and control,  
40 within the parameters of federal and state law, in the planning,

1 administration, and delivery of Low-Income Home Energy  
2 Assistance Program Block Grant services. Local service providers  
3 shall be defined as private, nonprofit, and public agencies  
4 designated in accordance with Public Law 97-35, as amended. The  
5 formation of service regions beyond those that were in place in  
6 1995, or those that were in place in Los Angeles County in January  
7 1997, shall occur only with the concurrence of service providers  
8 within the proposed regions. The department shall allocate funds  
9 received as follows:

10 ~~(a) (1) Beginning in federal fiscal year 2000, up to 5 percent~~

11 ~~(a) Up to 5 percent of the state's total federal allocation for the~~  
12 ~~Low-Income Home Energy Assistance Program shall be retained~~  
13 ~~by the Department of Community Services and Development for~~  
14 ~~purposes of overall planning and administration. Five percent of~~  
15 ~~the state's total federal allocation for the Low-Income Home~~  
16 ~~Energy Assistance Program shall be allocated to local service~~  
17 ~~providers for purposes of planning and administration.~~

18 ~~(2) Upon achievement of administrative efficiencies, or no later~~  
19 ~~than June 30, 2001, the department and the local service providers~~  
20 ~~committee established pursuant to subdivision (k) shall examine~~  
21 ~~the appropriate split of administrative funding between the state~~  
22 ~~and local services providers necessary to achieve the intent of~~  
23 ~~federal law regarding the Low-Income Home Energy Assistance~~  
24 ~~Program. The department shall not retain more than 5 percent of~~  
25 ~~the state's total federal allocation for the Low-Income Home~~  
26 ~~Energy Assistance Program.~~

27 (b) Services under this section shall be available to households  
28 in which one or more individuals are receiving:

29 (1) Temporary Assistance for Needy Families under the state's  
30 plan approved under Public Law 104-193, the Personal  
31 Responsibility and Work Opportunity Reconciliation Act of 1996,  
32 and Chapter 2 (commencing with Section 11200) of Part 3 of  
33 Division 9 of the Welfare and Institutions Code.

34 (2) Supplemental Security Income payments under Title XVI  
35 of the federal Social Security Act (42 U.S.C. Sec. 1381 et seq.)  
36 and Chapter 3 (commencing with Section 12000) of Part 3 of  
37 Division 9 of the Welfare and Institutions Code.

38 (3) County general assistance under Part 5 (commencing with  
39 Section 17000) of Division 9 of the Welfare and Institutions Code.

1 (4) Food stamps received under the Food Stamp Act of 1977  
2 and pursuant to Chapter 10 (commencing with Section 18900) of  
3 Part 6 of Division 9 of the Welfare and Institutions Code.

4 (5) Payments under Section 415, 521, 541, or 542 of Title 38  
5 of the United States Code, or under Section 306 of the Veterans'  
6 and Survivors' Pension Improvement Act of 1978.

7 (6) Households with incomes that do not exceed the greater of  
8 an amount equal to the maximum percent of the federal poverty  
9 level or state median income, as permitted by the federal block  
10 grant, except that no household may be excluded from eligibility  
11 solely on the basis of household income if that income is less than  
12 110 percent of the poverty level for this state, but priority may be  
13 given to those households with the highest home energy costs or  
14 needs in relation to household income.

15 (c) An amount of not less than 15 percent and up to the  
16 maximum allowed by federal law of the total federal allocation  
17 shall be allocated for weatherization services for eligible  
18 individuals. For each program year, to the extent that the state is  
19 eligible, the Department of Community Services and Development  
20 shall apply to the appropriate federal agencies for any waivers that  
21 may be necessary to ensure that the amount available for the  
22 purposes of this subdivision will be the maximum amount  
23 allowable under federal law. For the purposes of this subdivision,  
24 weatherization shall include all energy conservation measures and  
25 energy efficient appliances that are cost-effective and improve  
26 energy efficiency. The department shall allocate 5 percent of the  
27 weatherization program allocation to local service providers for  
28 outreach and related activities.

29 (d) At the discretion of local service providers, the state shall  
30 allocate the maximum amount allowable under federal law to local  
31 service providers to provide services that encourage and enable  
32 households to reduce their home energy needs, thus reducing the  
33 need for energy assistance, including needs assessments,  
34 counseling, and assistance with energy vendors, in accordance  
35 with Section 2605(b)(16) of Public Law 97-35, as amended.

36 (e) Based on data from prior years, a reasonable amount of  
37 available funds, as determined jointly by the department and the  
38 local service providers, shall be reserved until March 15 of each  
39 program year for the Energy Crisis Intervention Program. Local  
40 service providers shall submit proposed funding levels with

1 supporting data to the department in a timely manner for inclusion  
2 in the state plan. The department shall approve local funding  
3 requests that are determined to be in compliance with federal law.  
4 These funds shall only be used for emergency assistance to eligible  
5 individuals for programs specified in this subdivision, who give  
6 evidence of one or more of the following conditions:

7 (1) Proof of utility shutoff notice.

8 (2) Proof of energy termination.

9 (3) Insufficient funds to establish a new energy account.

10 (4) Insufficient funds to pay a delinquent utility bill.

11 (5) Insufficient funds to pay the cost of space heating devices  
12 where no alternative source of space heating is reasonably  
13 available.

14 (6) Insufficient funds to pay for essential firewood, oil, or  
15 propane.

16 (7) Insufficient funds to pay for the cost of emergency repairs  
17 to heating and cooling units, the emergency replacement of heating  
18 and cooling units, or both.

19 (8) Insufficient funds to pay energy costs for a household where  
20 a household member's medical condition requires use of life  
21 support or climate and temperature control systems.

22 (9) Other conditions that may be included in the state plan.

23 (f) (1) The energy crisis intervention program shall not include  
24 advocacy, community mobilization, or community planning. After  
25 March 15 of each program year, local administrative agencies shall  
26 have the option of continuing to offer energy crisis intervention  
27 services or of reallocating a portion of or all unspent energy crisis  
28 intervention funds into direct assistance payment services.

29 (2) The department shall allocate 5 percent of the energy crisis  
30 intervention program allocation to the local service providers for  
31 outreach and related services.

32 (3) The department shall retain all funds associated with Energy  
33 Crisis Intervention Program payments for gas and electric utility  
34 service, and shall make payments for eligible households' gas or  
35 electric service accounts directly to the utilities. The department  
36 may use alternative payment methods when direct payments to  
37 the utilities have not been arranged.

38 (g) The remainder of the total federal allocation shall be utilized  
39 for aid for home energy costs for direct assistance payments. The  
40 department shall retain all funds associated with Home Energy

1 Assistance Program direct assistance payments for gas and electric  
2 utility service, and shall make payments for eligible households’  
3 gas or electric service accounts directly to the utilities. The  
4 department may use alternative payment methods when direct  
5 payments to the utilities have not been arranged.

6 (h) The Department of Community Services and Development  
7 shall contract with local public or private nonprofit agencies, or  
8 both, to provide outreach, intake, and other activities to enroll  
9 eligible individuals in the program components prescribed by this  
10 section.

11 (i) The program components provided for in this section shall  
12 include activities to enroll households that have the highest home  
13 energy needs as determined by taking into account both the energy  
14 burden of these households, and the unique situation of these  
15 households that results from having members of vulnerable  
16 populations, including very young children, individuals with  
17 disabilities, and frail older individuals, as provided for by Section  
18 2603(3) of Public Law 97-35, as amended, and to educate recipients  
19 about general energy conservation practices and about the  
20 availability of state and federal utility programs for free  
21 weatherization of low-income homes.

22 (j) The department shall allocate 5 percent of the direct  
23 assistance payment funds to the local service providers for outreach  
24 and related services in operating the direct home energy assistance  
25 payment program.

26 (k) The department shall establish a local service providers  
27 committee to act in an advisory capacity in the development of  
28 the annual Low-Income Home Energy Assistance Program state  
29 plan. The membership of the committee shall include one voting  
30 representative chosen by each local service provider that has a  
31 Low-Income Home Energy Assistance Program contract with the  
32 state and one representative of each interested utility company.  
33 Each local service provider may, at its option, assign its vote in  
34 writing to another entity, such as a provider association, to  
35 represent its interests.

36 (l) This section shall remain in effect only until January 1, 2013,  
37 and as of that date is repealed, unless a later enacted statute, that  
38 is enacted before January 1, 2013, deletes or extends that date.

39 SEC. 30.13. Section 16367.5 is added to the Government Code,  
40 to read:

1 16367.5. (a) As used in this section, “department” means the  
2 Department of Energy established pursuant to Section 25200 of  
3 the Public Resources Code.

4 (b) The department shall receive and administer the federal  
5 Low-Income Home Energy Assistance Program Block Grant,  
6 provided for pursuant to the Low-Income Home Energy Assistance  
7 Act of 1981, as amended (42 U.S.C. Sec. 8621 et seq.). The  
8 department shall afford local service providers maximum flexibility  
9 and control, within the parameters of federal and state law, in the  
10 planning, administration, and delivery of Low-Income Home  
11 Energy Assistance Program Block Grant services. Local service  
12 providers shall be defined as private, nonprofit, and public agencies  
13 designated in accordance with Public Law 97-35, as amended. The  
14 formation of service regions beyond those that were in place in  
15 1995, or those that were in place in Los Angeles County in January  
16 1997, shall occur only with the concurrence of service providers  
17 within the proposed regions. The department shall allocate funds  
18 received as follows:

19 ~~(1) (A) Beginning in federal fiscal year 2000, up to 5 percent~~

20 ~~(1) Up to 5 percent of the state’s total federal allocation for the~~  
21 ~~Low-Income Home Energy Assistance Program shall be retained~~  
22 ~~by the department for purposes of overall planning and~~  
23 ~~administration. Five percent of the state’s total federal allocation~~  
24 ~~for the Low-Income Home Energy Assistance Program shall be~~  
25 ~~allocated to local service providers for purposes of planning and~~  
26 ~~administration.~~

27 ~~(B) Upon achievement of administrative efficiencies, or no later~~  
28 ~~than June 30, 2001, the department and the local service providers~~  
29 ~~committee established pursuant to paragraph (11) shall examine~~  
30 ~~the appropriate split of administrative funding between the state~~  
31 ~~and local services providers necessary to achieve the intent of~~  
32 ~~federal law regarding the Low-Income Home Energy Assistance~~  
33 ~~Program. The department shall not retain more than 5 percent of~~  
34 ~~the state’s total federal allocation for the Low-Income Home~~  
35 ~~Energy Assistance Program.~~

36 (2) Services under this section shall be available to households  
37 in which one or more individuals are receiving:

38 (A) Temporary Assistance for Needy Families under the state’s  
39 plan approved under Public Law 104-193, the Personal  
40 Responsibility and Work Opportunity Reconciliation Act of 1996,

1 and Chapter 2 (commencing with Section 11200) of Part 3 of  
2 Division 9 of the Welfare and Institutions Code.

3 (B) Supplemental Security Income payments under Title XVI  
4 of the federal Social Security Act (42 U.S.C. Sec. 1381 et seq.)  
5 and Chapter 3 (commencing with Section 12000) of Part 3 of  
6 Division 9 of the Welfare and Institutions Code.

7 (C) County general assistance under Part 5 (commencing with  
8 Section 17000) of Division 9 of the Welfare and Institutions Code.

9 (D) Food stamps received under the Food Stamp Act of 1977  
10 and pursuant to Chapter 10 (commencing with Section 18900) of  
11 Part 6 of Division 9 of the Welfare and Institutions Code.

12 (E) Payments under Section 415, 521, 541, or 542 of Title 38  
13 of the United States Code, or under Section 306 of the Veterans'  
14 and Survivors' Pension Improvement Act of 1978.

15 (F) Households with incomes that do not exceed the greater of  
16 an amount equal to the maximum percent of the federal poverty  
17 level or state median income, as permitted by the federal block  
18 grant, except that no household may be excluded from eligibility  
19 solely on the basis of household income if that income is less than  
20 110 percent of the poverty level for this state, but priority may be  
21 given to those households with the highest home energy costs or  
22 needs in relation to household income.

23 (3) An amount of not less than 15 percent and up to the  
24 maximum allowed by federal law of the total federal allocation  
25 shall be allocated for weatherization services for eligible  
26 individuals. For each program year, to the extent that the state is  
27 eligible, the department shall apply to the appropriate federal  
28 agencies for any waivers that may be necessary to ensure that the  
29 amount available for the purposes of this subdivision will be the  
30 maximum amount allowable under federal law. For the purposes  
31 of this subdivision, weatherization shall include all energy  
32 conservation measures and energy efficient appliances that are  
33 cost effective and improve energy efficiency. The department shall  
34 allocate 5 percent of the weatherization program allocation to local  
35 service providers for outreach and related activities.

36 (4) At the discretion of local service providers, the state shall  
37 allocate the maximum amount allowable under federal law to local  
38 service providers to provide services that encourage and enable  
39 households to reduce their home energy needs, thus reducing the  
40 need for energy assistance, including needs assessments,

1 counseling, and assistance with energy vendors, in accordance  
2 with Section 2605(b)(16) of Public Law 97-35, as amended.

3 (5) Based on data from prior years, a reasonable amount of  
4 available funds, as determined jointly by the department and the  
5 local service providers, shall be reserved until March 15 of each  
6 program year for the Energy Crisis Intervention Program. Local  
7 service providers shall submit proposed funding levels with  
8 supporting data to the department in a timely manner for inclusion  
9 in the state plan. The department shall approve local funding  
10 requests that are determined to be in compliance with federal law.  
11 These funds shall only be used for emergency assistance to eligible  
12 individuals for programs specified in this subdivision, who give  
13 evidence of one or more of the following conditions:

14 (A) Proof of utility shutoff notice.

15 (B) Proof of energy termination.

16 (C) Insufficient funds to establish a new energy account.

17 (D) Insufficient funds to pay a delinquent utility bill.

18 (E) Insufficient funds to pay the cost of space heating devices  
19 where no alternative source of space heating is reasonably  
20 available.

21 (F) Insufficient funds to pay for essential firewood, oil, or  
22 propane.

23 (G) Insufficient funds to pay for the cost of emergency repairs  
24 to heating and cooling units, the emergency replacement of heating  
25 and cooling units, or both.

26 (H) Insufficient funds to pay energy costs for a household where  
27 a household member's medical condition requires use of life  
28 support or climate and temperature control systems.

29 (I) Other conditions that may be included in the state plan.

30 (6) (A) The energy crisis intervention program shall not include  
31 advocacy, community mobilization, or community planning. After  
32 March 15 of each program year, local administrative agencies shall  
33 have the option of continuing to offer energy crisis intervention  
34 services or of reallocating a portion of or all unspent energy crisis  
35 intervention funds into direct assistance payment services.

36 (B) The department shall allocate 5 percent of the energy crisis  
37 intervention program allocation to the local service providers for  
38 outreach and related services.

39 (C) The department shall retain all funds associated with Energy  
40 Crisis Intervention Program payments for gas and electric utility

1 service, and shall make payments for eligible households' gas or  
2 electric service accounts directly to the utilities. The department  
3 may use alternative payment methods when direct payments to  
4 the utilities have not been arranged.

5 (7) The remainder of the total federal allocation shall be utilized  
6 for aid for home energy costs for direct assistance payments. The  
7 department shall retain all funds associated with Home Energy  
8 Assistance Program direct assistance payments for gas and electric  
9 utility service, and shall make payments for eligible households'  
10 gas or electric service accounts directly to the utilities. The  
11 department may use alternative payment methods when direct  
12 payments to the utilities have not been arranged.

13 (8) The department shall contract with local public or private  
14 nonprofit agencies, or both, to provide outreach, intake, and other  
15 activities to enroll eligible individuals in the program components  
16 prescribed by this section.

17 (9) The program components provided for in this section shall  
18 include activities to enroll households that have the highest home  
19 energy needs as determined by taking into account both the energy  
20 burden of these households, and the unique situation of these  
21 households that results from having members of vulnerable  
22 populations, including very young children, individuals with  
23 disabilities, and frail older individuals, as provided for by Section  
24 2603(3) of Public Law 97-35, as amended, and to educate recipients  
25 about general energy conservation practices and about the  
26 availability of state and federal utility programs for free  
27 weatherization of low-income homes.

28 (10) The department shall allocate 5 percent of the direct  
29 assistance payment funds to the local service providers for outreach  
30 and related services in operating the direct home energy assistance  
31 payment program.

32 (11) The department shall establish a local service providers  
33 committee to act in an advisory capacity in the development of  
34 the annual Low-Income Home Energy Assistance Program state  
35 plan. The membership of the committee shall include one voting  
36 representative chosen by each local service provider that has a  
37 Low-Income Home Energy Assistance Program contract with the  
38 state and one representative of each interested utility company.  
39 Each local service provider may, at its option, assign its vote in

1 writing to another entity, such as a provider association, to  
2 represent its interests.

3 (c) This section shall become operative on January 1, 2013.

4 SEC. 30.14. Section 16367.6 of the Government Code is  
5 amended to read:

6 16367.6. (a) The Department of Energy shall receive and  
7 administer all state and federal funds which are allocated for  
8 programs to provide energy assistance to qualified low-income  
9 individuals only, except for those funds which are allocated to,  
10 and distributed by, the California Energy Extension Service.

11 (b) The Department of Energy shall promulgate a comprehensive  
12 procedure to assure that those energy assistance funds are utilized  
13 in the most productive and efficient manner, including a  
14 distribution system whereby all funds allocated for direct assistance  
15 payments are distributed by state and local agencies directly to the  
16 electrical or gas corporations or other suppliers of energy on behalf  
17 of the qualified low-income individuals or by two-party checks  
18 made payable to both the energy supplier and the individual. In  
19 establishing this system, the Department of Energy shall consult  
20 with representatives of electrical or gas corporations or other  
21 suppliers of energy and with local agencies that participate in  
22 distributing assistance funds.

23 The Department of Energy shall have the discretion to adjust  
24 payments to the energy supplier or the individual or to make direct  
25 payments to the individual for payment to an energy supplier in  
26 special or unique circumstances not otherwise provided for in this  
27 section.

28 SEC. 30.15. Section 16367.61 of the Government Code is  
29 repealed.

30 SEC. 30.16. Section 16367.65 of the Government Code is  
31 repealed.

32 SEC. 30.17. Section 16367.7 of the Government Code is  
33 repealed.

34 SEC. 30.18. Section 16367.8 of the Government Code is  
35 repealed.

36 SEC. 31. Section 66645 of the Government Code is amended  
37 to read:

38 66645. (a) In addition to the provisions of Sections 25302,  
39 25500, 25508, 25519, 25523, and 25526 of the Public Resources  
40 Code, the provisions of this section shall apply to the commission

1 and the Department of Energy with respect to matters within the  
2 statutory responsibility of the latter.

3 (b) After one or more public hearings, and prior to January 1,  
4 1979, the commission shall designate those specific locations  
5 within the Suisun Marsh, as defined in Section 29101 of the Public  
6 Resources Code, or the area of jurisdiction of the commission,  
7 where the location of a facility, as defined in Section 25110 of the  
8 Public Resources Code, would be inconsistent with this title or  
9 Division 19 (commencing with Section 29000) of the Public  
10 Resources Code. The following locations, however, shall not be  
11 so designated: (1) any property of a utility that is used for such a  
12 facility or will be used for the reasonable expansion thereof; (2)  
13 any site for which a notice of intention to file an application for  
14 certification has been filed pursuant to Section 25502 of the Public  
15 Resources Code prior to January 1, 1978, and is subsequently  
16 approved pursuant to Section 22516 of the Public Resources Code;  
17 and (3) the area east of Collinsville Road that is designated for  
18 water-related industrial use on the Suisun Marsh Protection Plan  
19 Map. Each designation made pursuant to this section shall include  
20 a description of the boundaries of those locations, the provisions  
21 of this title or Division 19 (commencing with Section 29000) of  
22 the Public Resources Code with which they would be inconsistent,  
23 and detailed findings concerning the significant adverse impacts  
24 that would result from development of a facility in the designated  
25 area. The commission shall consider the conclusions, if any,  
26 reached by the Department of Energy in its most recently  
27 promulgated comprehensive report issued pursuant to former  
28 Section 25309 of the Public Resources Code. The commission  
29 also shall request the assistance of the Department of Energy in  
30 carrying out the requirements of this section. The commission shall  
31 transmit a copy of its report prepared pursuant to this subdivision  
32 to the Department of Energy.

33 (c) The commission shall revise and update the designations  
34 specified in subdivision (b) not less than once every five years.

35 (d) Whenever the ~~Secretary of Energy~~ *California Energy Board*  
36 exercises its siting authority and undertakes proceedings pursuant  
37 to Chapter 6 (commencing with Section 25500) of Division 15 of  
38 the Public Resources Code with respect to any ~~powerplant~~ *thermal*  
39 *or solar nonthermal powerplant over 50 megawatts* or transmission  
40 line to be located, in whole or in part, within the Suisun Marsh or

1 the area of jurisdiction of the commission, the commission shall  
2 participate in those proceedings and shall receive from the  
3 Department of Energy any application for certification of a site  
4 and related facilities within the Suisun Marsh or the area of  
5 jurisdiction of the commission. The commission shall analyze each  
6 application for certification and, prior to commencement of the  
7 hearings conducted pursuant to Section 25521 of the Public  
8 Resources Code, shall forward to the Department of Energy a  
9 written report on the suitability of the proposed site and related  
10 facilities specified in that application. The commission's report  
11 shall contain a consideration of, and findings regarding, the  
12 following:

13 (1) If it is to be located within the Suisun Marsh, the consistency  
14 of the proposed site and related facilities, with this title and  
15 Division 19 (commencing with Section 29000) of the Public  
16 Resources Code, the policies of the Suisun Marsh Protection Plan,  
17 as defined in Section 29113 of the Public Resources Code, and the  
18 certified local protection program, as defined in Section 29111 of  
19 the Public Resources Code, if any.

20 (2) If it is to be located within the area of jurisdiction of the  
21 commission, the consistency of the proposed site and related  
22 facilities with this title and the San Francisco Bay Plan.

23 (3) The degree to which the proposed site and related facilities  
24 could reasonably be modified so as to be consistent with this title,  
25 Division 19 (commencing with Section 29000) of the Public  
26 Resources Code, the Suisun Marsh Protection Plan, or the San  
27 Francisco Bay Plan.

28 (4) Any other matters as the commission deems appropriate and  
29 necessary to carry out Division 19 (commencing with Section  
30 29000) of the Public Resources Code.

31 SEC. 32. Section 66646 of the Government Code is amended  
32 to read:

33 66646. Notwithstanding any other provision of this title, except  
34 subdivisions (b) and (c) of Section 66645, and notwithstanding  
35 any provision of Division 19 (commencing with Section 29000)  
36 of the Public Resources Code, new or expanded electric generating  
37 plants may be constructed within the Suisun Marsh, as defined in  
38 Section 29101 of the Public Resources Code, or the area of  
39 jurisdiction of the commission, if the proposed site has been  
40 determined, pursuant to Section 25523 of the Public Resources

1 Code, by the Department of Energy to have greater relative merit  
 2 than available alternative sites and related facilities.

3 SEC. 33. Section 3805.5 of the Public Resources Code is  
 4 repealed.

5 SEC. 34. Section 3806.5 is added to the Public Resources Code,  
 6 to read:

7 3806.5. “Department” means the Department of Energy.

8 SEC. 35. Section 3808 of the Public Resources Code is  
 9 amended to read:

10 3808. (a) “Geothermal resources” means geothermal resources  
 11 designated by the United States Geological Survey or the  
 12 Department of Conservation, or by both.

13 (b) The Department of Conservation shall periodically review,  
 14 and revise as necessary, its designation of geothermal resource  
 15 areas and shall transmit any changes to the department.

16 SEC. 36. Section 3810 of the Public Resources Code is  
 17 amended to read:

18 3810. (a) (1) “Award repayment or program reimbursement  
 19 agreement,” including a “royalty agreement,” as specified in  
 20 subdivision (b), means a method used at the discretion of the  
 21 department to determine and establish the terms of replenishment  
 22 of program funds, including, at a minimum, repayment of the  
 23 award to provide for further awards under this chapter. The award  
 24 repayment or program reimbursement agreement may provide that  
 25 payments be made to the department when the award recipient,  
 26 affiliate of the award recipient, or third party receives, through any  
 27 kind of transaction, an economic benefit from the project,  
 28 invention, or product developed, made possible, or derived, in  
 29 whole or in part, as a result of the award.

30 (2) An award repayment or program reimbursement agreement  
 31 shall specify the method to be used by the department to determine  
 32 and establish the terms of repayment and reimbursement of the  
 33 award.

34 (3) The department may require due diligence of the award  
 35 recipient and may take any action that is necessary to bring the  
 36 project, invention, or product to market.

37 (4) Subject to the confidentiality requirements of Section 2505  
 38 of Title 20 of the California Code of Regulations, the department  
 39 may require access to financial, sales, and production information,  
 40 and to other agreements involving transactions of the award

1 recipient, affiliates of the award recipient, and third parties, as  
2 necessary, to ascertain the royalties or other payments due the  
3 department.

4 (b) A “royalty agreement” is an award repayment or program  
5 reimbursement agreement and is subject to all of the following  
6 conditions:

7 (1) The royalty rate shall be determined by the department and  
8 shall not exceed 5 percent of the gross revenue derived from the  
9 project, invention, or product.

10 (2) The royalty agreement shall specify the method to be used  
11 by the department to determine and establish the terms of payment  
12 of the royalty rate.

13 (3) The department shall determine the duration of the royalty  
14 agreement and may negotiate a collection schedule.

15 (4) The department, for separate consideration, may negotiate  
16 and receive payments to provide for an early termination of the  
17 royalty agreement.

18 (c) (1) The department may require that the intellectual property  
19 developed, made possible, or derived, in whole or in part, as a  
20 result of the award repayment or program reimbursement  
21 agreement, revert to the state upon a default in the terms of the  
22 award repayment or program reimbursement agreement or royalty  
23 agreement.

24 (2) The department may require advance notice of any  
25 transaction involving intellectual property rights.

26 SEC. 37. Section 3822 of the Public Resources Code is  
27 amended to read:

28 3822. (a) Thirty percent of the revenues received and deposited  
29 in the Geothermal Resources Development Account shall be  
30 available for expenditure by the department as grants or loans to  
31 local jurisdictions or private entities without regard to fiscal years.  
32 These revenues shall be held by the department in the Local  
33 Government Geothermal Resources Revolving Subaccount, which  
34 is hereby created in the Geothermal Resources Development  
35 Account. Loan repayments shall be deposited in the subaccount  
36 and shall be used for making additional grants and loans pursuant  
37 to Section 3823.

38 (b) No local jurisdiction shall be eligible to apply for a grant or  
39 loan pursuant to this section unless its governing body approves  
40 the application by resolution.

1 (c) Each recipient of a grant or loan made pursuant to this section  
 2 shall establish, for the deposit of the revenues, an account or fund  
 3 that is separate from the other accounts and funds of the recipient,  
 4 and may expend the revenues only for the purposes specified in  
 5 this chapter.

6 (d) The department shall make grants and loans pursuant to this  
 7 section irrespective of whether a local jurisdiction is a county of  
 8 origin.

9 (e) Any of the revenues that are not disbursed as grants or loans  
 10 pursuant to this section during the fiscal year received shall be  
 11 retained in the subaccount and may be disbursed as grants or loans  
 12 pursuant to this section in succeeding fiscal years.

13 (f) (1) Any loan made under this section shall:

14 (A) Not exceed 80 percent of the local jurisdiction’s costs.

15 (B) Be repaid together with interest within 20 years from receipt  
 16 of the loan funds.

17 (2) Notwithstanding any other provision of law, the department  
 18 shall, unless it determines that the purposes of this chapter would  
 19 be better served by establishing an alternative interest rate schedule,  
 20 periodically set interest rates on the loans based on surveys of  
 21 existing financial markets and at rates not lower than the Pooled  
 22 Money Investment Account.

23 (g) Any loan or grant made to a private entity under this section  
 24 shall (1) be matched with at least an equal investment by the  
 25 recipient, (2) provide tangible benefits, as determined by the  
 26 department, to a local jurisdiction, and (3) be approved by the city,  
 27 county, or Indian reservation within which the project is to be  
 28 located.

29 (h) The department may require an award repayment or program  
 30 reimbursement agreement of any recipient of a grant or loan made  
 31 pursuant to this section.

32 SEC. 38. Section 3822.1 of the Public Resources Code is  
 33 amended to read:

34 3822.1. Notwithstanding any other provision of law,  
 35 commencing with the 1984–85 fiscal year and in each fiscal year  
 36 thereafter, any revenues not granted pursuant to Section 3822  
 37 remaining in the Geothermal Resources Development Account  
 38 and any revenues expected to be received and disbursed during  
 39 the 1984–85 fiscal year and in each fiscal year thereafter shall be  
 40 made a part of the Governor’s Budget. Projects approved by the

1 department under this chapter shall be submitted for review and  
2 comment to the Department of Finance, the Legislative Analyst,  
3 and the Joint Legislative Budget Committee when the Legislature  
4 is in session. After a 30-day period, the department shall execute  
5 the funding agreements. The department shall submit to the  
6 Legislature by April 1 of each year, a list of projects, in priority  
7 order, selected and approved during the previous year.

8 SEC. 39. Section 3822.2 of the Public Resources Code is  
9 amended to read:

10 3822.2. (a) Notwithstanding any other provision of law, the  
11 department may expend funds, from that portion of the Geothermal  
12 Resources Development Account used by the department for grants  
13 and loans, to provide direct technical assistance to local  
14 jurisdictions that are eligible for grants and loans pursuant to  
15 Section 3822.

16 (b) The total of all amounts expended pursuant to this section  
17 shall not exceed 5 percent of all funds available under Section  
18 3822 or one hundred thousand dollars (\$100,000), whichever  
19 amount is less.

20 (c) In making expenditures under this section, the department  
21 shall consider, but not be limited to a consideration of, all of the  
22 following:

23 (1) The availability of energy resource and technology  
24 opportunities.

25 (2) The project definition and likelihood of success.

26 (3) Local needs and potential project benefits.

27 SEC. 40. Section 4799.16 of the Public Resources Code is  
28 amended to read:

29 4799.16. The department shall coordinate its activities and  
30 cooperate with the Department of Energy in the development of  
31 surveys, studies, and research concerning the utilization of wood  
32 waste and forest growth for energy. The department shall also  
33 coordinate its activities with other public and private agencies to  
34 insure that the activities of the department and those other agencies  
35 are not duplicative and the maximum benefit occurs from actions  
36 taken by the department to carry out its responsibilities pursuant  
37 to this chapter.

38 SEC. 41. Section 6815.2 of the Public Resources Code is  
39 amended to read:

1 6815.2. (a) Notwithstanding Section 6815.1, the commission  
2 may take any oil, gas, or other hydrocarbons taken in kind by it,  
3 pursuant to any lease or agreement, and exchange it, by competitive  
4 bidding, for refined products that shall be allocated to state agencies  
5 and to other public agencies, if the California Energy Board, after  
6 a public hearing, finds, in its judgment, that the retention and  
7 allocation is necessary to alleviate fuel shortage conditions or will  
8 effect a substantial cost saving to the state.

9 (b) The commission may make and enter into contracts or  
10 agreements for exchange of oil, gas, and other hydrocarbons taken  
11 in kind for finished products required for use by state and other  
12 public agencies. These contracts or agreements shall be entered  
13 into by competitive bids. The commission may reject all bids if it  
14 determines that they are not in the public interest.

15 (c) The commission shall charge the state or other public  
16 agencies allocated refined products the current market price of  
17 these products including all applicable taxes. This price shall not  
18 be less than the value of the oil, gas, or other hydrocarbons that  
19 would have been received by the state if not taken in kind. The  
20 revenue shall be subject to the terms and conditions enumerated  
21 in Section 6217. The taxes generated by these sales shall be  
22 distributed according to applicable provisions of the Revenue and  
23 Taxation Code.

24 (d) The refined products obtained from exchange contracts or  
25 agreements entered into pursuant to this section shall be allocated  
26 to state agencies and to other public agencies in accordance with  
27 the regulations, which shall be adopted, after a public hearing, by  
28 the Department of Energy.

29 (e) (1) Notwithstanding Section 6815.1, if the commission  
30 determines that it is in the best interests of the state, it may allow  
31 another state or public agency to take in kind oil, gas, or other  
32 hydrocarbons acquired by the commission.

33 (2) The commission shall charge the state or other public  
34 agencies allocated in kind oil, gas, or other hydrocarbons the  
35 current market price of these products, including all applicable  
36 taxes. This price shall not be less than the value of the oil, gas, or  
37 other hydrocarbons that would have been received by the state if  
38 not taken in kind. The commission may also charge for any  
39 transportation, treatment, or other costs associated with taking the  
40 in kind royalty. The revenue shall be subject to the terms and

1 conditions enumerated in Section 6217. The taxes generated by  
2 these sales shall be distributed according to applicable provisions  
3 of the Revenue and Taxation Code.

4 SEC. 42. Section 14584 of the Public Resources Code is  
5 amended to read:

6 14584. (a) Operators of reverse vending machines or  
7 processors may apply to the California Pollution Control Financing  
8 Authority for financing pursuant to Section 44526 of the Health  
9 and Safety Code, as a means of obtaining capital for establishment  
10 of a convenience network. For purposes of Section 44508 of the  
11 Health and Safety Code, “project” includes the establishing of a  
12 recycling location pursuant to the division.

13 (b) Corporations, companies, or individuals may apply for loan  
14 and grant funds from the Energy Technologies Research,  
15 Development, and Demonstration Account specified in Section  
16 25683 by applying to the Department of Energy for the purpose  
17 of demonstrating equipment for enhancing recycling opportunities.

18 SEC. 43. Section 21080 of the Public Resources Code is  
19 amended to read:

20 21080. (a) Except as otherwise provided in this division, this  
21 division shall apply to discretionary projects proposed to be carried  
22 out or approved by public agencies, including, but not limited to,  
23 the enactment and amendment of zoning ordinances, the issuance  
24 of zoning variances, the issuance of conditional use permits, and  
25 the approval of tentative subdivision maps unless the project is  
26 exempt from this division.

27 (b) This division does not apply to any of the following  
28 activities:

29 (1) Ministerial projects proposed to be carried out or approved  
30 by public agencies.

31 (2) Emergency repairs to public service facilities necessary to  
32 maintain service.

33 (3) Projects undertaken, carried out, or approved by a public  
34 agency to maintain, repair, restore, demolish, or replace property  
35 or facilities damaged or destroyed as a result of a disaster in a  
36 disaster-stricken area in which a state of emergency has been  
37 proclaimed by the Governor pursuant to Chapter 7 (commencing  
38 with Section 8550) of Division 1 of Title 2 of the Government  
39 Code.

- 1 (4) Specific actions necessary to prevent or mitigate an
- 2 emergency.
- 3 (5) Projects that a public agency rejects or disapproves.
- 4 (6) Actions undertaken by a public agency relating to any
- 5 ~~powerplant~~ *thermal or solar nonthermal powerplant over 50*
- 6 *megawatts*, site or facility, including the expenditure, obligation,
- 7 or encumbrance of funds by a public agency for planning,
- 8 engineering, or design purposes, or for the conditional sale or
- 9 purchase of equipment, fuel, water (except groundwater), steam,
- 10 or power for a powerplant, if the powerplant site and related facility
- 11 will be the subject of an environmental impact report, negative
- 12 declaration, or other document, prepared pursuant to a regulatory
- 13 program certified pursuant to Section 21080.5, which will be
- 14 prepared by the Department of Energy, by the Public Utilities
- 15 Commission, or by the city or county in which the powerplant and
- 16 related facility would be located if the environmental impact report,
- 17 negative declaration, or document includes the environmental
- 18 impact, if any, of the action described in this paragraph.
- 19 (7) Activities or approvals necessary to the bidding for, hosting
- 20 or staging of, and funding or carrying out of, an Olympic games
- 21 under the authority of the International Olympic Committee, except
- 22 for the construction of facilities necessary for the Olympic games.
- 23 (8) The establishment, modification, structuring, restructuring,
- 24 or approval of rates, tolls, fares, or other charges by public agencies
- 25 that the public agency finds are for the purpose of (A) meeting
- 26 operating expenses, including employee wage rates and fringe
- 27 benefits, (B) purchasing or leasing supplies, equipment, or
- 28 materials, (C) meeting financial reserve needs and requirements,
- 29 (D) obtaining funds for capital projects necessary to maintain
- 30 service within existing service areas, or (E) obtaining funds
- 31 necessary to maintain those intracity transfers as are authorized
- 32 by city charter. The public agency shall incorporate written findings
- 33 in the record of any proceeding in which an exemption under this
- 34 paragraph is claimed setting forth with specificity the basis for the
- 35 claim of exemption.
- 36 (9) All classes of projects designated pursuant to Section 21084.
- 37 (10) A project for the institution or increase of passenger or
- 38 commuter services on rail or highway rights-of-way already in
- 39 use, including modernization of existing stations and parking
- 40 facilities.

1 (11) A project for the institution or increase of passenger or  
2 commuter service on high-occupancy vehicle lanes already in use,  
3 including the modernization of existing stations and parking  
4 facilities.

5 (12) Facility extensions not to exceed four miles in length that  
6 are required for the transfer of passengers from or to exclusive  
7 public mass transit guideway or busway public transit services.

8 (13) A project for the development of a regional transportation  
9 improvement program, the state transportation improvement  
10 program, or a congestion management program prepared pursuant  
11 to Section 65089 of the Government Code.

12 (14) Any project or portion thereof located in another state that  
13 will be subject to environmental impact review pursuant to the  
14 National Environmental Policy Act of 1969 (42 U.S.C. Sec. 4321  
15 et seq.) or similar state laws of that state. Any emissions or  
16 discharges that would have a significant effect on the environment  
17 in this state are subject to this division.

18 (15) Projects undertaken by a local agency to implement a rule  
19 or regulation imposed by a state agency, board, or commission  
20 under a certified regulatory program pursuant to Section 21080.5.  
21 Any site-specific effect of the project that was not analyzed as a  
22 significant effect on the environment in the plan or other written  
23 documentation required by Section 21080.5 is subject to this  
24 division.

25 (c) If a lead agency determines that a proposed project, not  
26 otherwise exempt from this division, would not have a significant  
27 effect on the environment, the lead agency shall adopt a negative  
28 declaration to that effect. The negative declaration shall be prepared  
29 for the proposed project in either of the following circumstances:

30 (1) There is no substantial evidence, in light of the whole record  
31 before the lead agency, that the project may have a significant  
32 effect on the environment.

33 (2) An initial study identifies potentially significant effects on  
34 the environment, but (A) revisions in the project plans or proposals  
35 made by, or agreed to by, the applicant before the proposed  
36 negative declaration and initial study are released for public review  
37 would avoid the effects or mitigate the effects to a point where  
38 clearly no significant effect on the environment would occur, and  
39 (B) there is no substantial evidence, in light of the whole record

1 before the lead agency, that the project, as revised, may have a  
2 significant effect on the environment.

3 (d) If there is substantial evidence, in light of the whole record  
4 before the lead agency, that the project may have a significant  
5 effect on the environment, an environmental impact report shall  
6 be prepared.

7 (e) (1) For the purposes of this section and this division,  
8 substantial evidence includes fact, a reasonable assumption  
9 predicated upon fact, or expert opinion supported by fact.

10 (2) Substantial evidence is not argument, speculation,  
11 unsubstantiated opinion or narrative, evidence that is clearly  
12 inaccurate or erroneous, or evidence of social or economic impacts  
13 that do not contribute to, or are not caused by, physical impacts  
14 on the environment.

15 (f) As a result of the public review process for a mitigated  
16 negative declaration, including administrative decisions and public  
17 hearings, the lead agency may conclude that certain mitigation  
18 measures identified pursuant to paragraph (2) of subdivision (c)  
19 are infeasible or otherwise undesirable. In those circumstances,  
20 the lead agency, prior to approving the project, may delete those  
21 mitigation measures and substitute for them other mitigation  
22 measures that the lead agency finds, after holding a public hearing  
23 on the matter, are equivalent or more effective in mitigating  
24 significant effects on the environment to a less than significant  
25 level and that do not cause any potentially significant effect on the  
26 environment. If those new mitigation measures are made conditions  
27 of project approval or are otherwise made part of the project  
28 approval, the deletion of the former measures and the substitution  
29 of the new mitigation measures shall not constitute an action or  
30 circumstance requiring recirculation of the mitigated negative  
31 declaration.

32 (g) This section does not preclude a project applicant or any  
33 other person from challenging, in an administrative or judicial  
34 proceeding, the legality of a condition of project approval imposed  
35 by the lead agency. If, however, any condition of project approval  
36 set aside by either an administrative body or court was necessary  
37 to avoid or lessen the likelihood of the occurrence of a significant  
38 effect on the environment, the lead agency's approval of the  
39 negative declaration and project shall be invalid and a new  
40 environmental review process shall be conducted before the project

1 can be reapproved, unless the lead agency substitutes a new  
2 condition that the lead agency finds, after holding a public hearing  
3 on the matter, is equivalent to, or more effective in, lessening or  
4 avoiding significant effects on the environment and that does not  
5 cause any potentially significant effect on the environment.

6 SEC. 44. Section 25104 of the Public Resources Code is  
7 amended to read:

8 25104. “Commission” means the California Energy Board.  
9 References to the State Energy Resources Conservation and  
10 Development Commission or to the California Energy Commission  
11 in other laws shall be to the California Energy Board.-

12 SEC. 45. Section 25104.1 is added to the Public Resources  
13 Code, to read:

14 25104.1. (a) “Department” means the Department of Energy.

15 (b) “Office” means the Office of Energy Market Oversight.

16 SEC. 46. Section 25104.2 is added to the Public Resources  
17 Code, to read:

18 25104.2. “Secretary” means the Secretary of Energy.

19 SEC. 47. Section 25106 of the Public Resources Code is  
20 amended to read:

21 25106. “Adviser” means the public adviser employed by the  
22 department pursuant to Section 25217.1.

23 SEC. 48. Section 25107 of the Public Resources Code is  
24 amended to read:

25 25107. “Electric transmission line” means any electric  
26 powerline carrying electric power from a powerplant located within  
27 the state to a point of junction with any interconnected transmission  
28 system. “Electric transmission line” does not include any  
29 replacement on the existing site of existing electric powerlines  
30 with electric powerlines equivalent to such existing electric  
31 powerlines or the placement of new or additional conductors,  
32 insulators, or accessories related to such electric powerlines on  
33 supporting structures in existence on the effective date of this  
34 division or certified pursuant to this division.

35 SEC. 50. Section 25110 of the Public Resources Code is  
36 amended to read:

37 25110. “Facility” means any electric transmission line or  
38 powerplant, or both electric transmission line and powerplant,  
39 regulated according to this division.

1 SEC. 51. Section 25112 of the Public Resources Code is  
2 amended to read:

3 25112. “Member” or “member of the commission” means a  
4 member of the California Energy Board designated or appointed  
5 pursuant to Section 25203.

6 SEC. 52. Section 25113 of the Public Resources Code is  
7 repealed.

8 SEC. 53. Section 25120 of the Public Resources Code is  
9 repealed.

10 SEC. 54. Section 25120 is added to the Public Resources Code,  
11 to read:

12 25120. “Powerplant” means a stationary or floating electrical  
13 generating facility using any ~~source of~~ *thermal source of energy*  
14 *or solar* energy, with a generating capacity of 50 megawatts or  
15 more, and any facilities appurtenant to the generating facility.  
16 Exploratory, development, and production wells, resource  
17 transmission lines, and other related facilities used in connection  
18 with a geothermal exploratory project or a geothermal field  
19 development project are not appurtenant facilities for the purposes  
20 of this division.

21 SEC. 55. Section 25123 of the Public Resources Code is  
22 amended to read:

23 25123. “Modification of an existing facility” means any  
24 alteration, replacement, or improvement of equipment that results  
25 in a 50-megawatt or more increase in the electric generating  
26 capacity of an existing powerplant or an increase of 25 percent in  
27 the peak operating voltage or peak kilowatt capacity of an existing  
28 electric transmission line.

29 SEC. 56. The heading of Chapter 3 (commencing with Section  
30 25200) of Division 15 of the Public Resources Code is amended  
31 to read:

32  
33 CHAPTER 3. DEPARTMENT OF ENERGY  
34

35 SEC. 57. Section 25200 of the Public Resources Code is  
36 repealed.

37 SEC. 58. Section 25200 is added to the Public Resources Code,  
38 to read:

39 25200. (a) The Department of Energy is hereby created in  
40 state government to be headed by the Secretary of Energy who

1 shall be appointed by, ~~and hold office at the pleasure of,~~ the  
2 Governor, subject to Senate confirmation and who shall hold office  
3 at the pleasure of the Governor. The Governor shall appoint the  
4 initial secretary by January 31, 2010.

5 (b) The Secretary of Energy shall serve as the principal advisor  
6 to the Governor on, and shall assist the Governor in establishing,  
7 major policy and program matters on electric power and other  
8 sources of energy as related to renewable energy, energy  
9 conservation, environmental protection, and other goals and  
10 policies established by this division.

11 (c) The Secretary of Energy shall have the power of a head of  
12 a department pursuant to Chapter 2 (commencing with Section  
13 11150) of Part 1 of Division 3 of Title 2 of the Government Code.

14 (d) The Governor may appoint an Assistant Secretary of Energy  
15 who shall serve at the pleasure of the Governor.

16 (e) Consistent with the powers set forth in Chapter 2  
17 (commencing with Section 12850) of Part 2.5 of Division 3 of  
18 Title 2 of the Government Code, the Secretary of Energy shall  
19 organize the department, with the approval of the Governor, in the  
20 manner he or she deems necessary to properly conduct the  
21 operations of the department. Notwithstanding Sections 11042,  
22 11043, and 11157 of the Government Code, the secretary may  
23 employ legal counsel who shall represent the department and the  
24 commission in connection with legal matters and litigation before  
25 any boards, agencies, or courts of the state or federal government.

26 (f) The department shall be responsible for the planning,  
27 development, and implementation of all major aspects of the state  
28 energy policy, including electricity.

29 (g) On or before April 1, 2010, the Secretary of Energy shall  
30 submit to the Legislature a proposal to recodify statutory provisions  
31 related to the department, and any other appropriate provisions,  
32 into an Energy Code.

33 SEC. 59. Section 25201 of the Public Resources Code is  
34 repealed.

35 SEC. 60. Section 25201 is added to the Public Resources Code,  
36 to read:

37 25201. (a) The Department of Energy hereby succeeds to, and  
38 is vested with, all the powers, duties, responsibilities, obligations,  
39 liabilities, jurisdiction, and rights and privileges of the following

1 agencies, which shall no longer exist, and shall be known as  
2 predecessor entities:

3 (1) The State Energy Resources Conservation and Development  
4 Commission, some of whose former functions shall be  
5 administrated by the California Energy ~~Commission~~ *Board* within  
6 the department as provided by law or directly by the Secretary of  
7 Energy.

8 (2) Electricity Oversight Board.

9 (b) Any reference in any law, regulation, or guideline to any of  
10 the predecessor entities listed in subdivision (a) shall be deemed  
11 to refer to the Department of Energy or the California Energy  
12 ~~Commission~~ *Board*, as appropriate, unless the context requires  
13 otherwise.

14 SEC. 61. Section 25202 of the Public Resources Code is  
15 repealed.

16 SEC. 62. Section 25202 is added to the Public Resources Code,  
17 to read:

18 25202. In addition to the powers, duties, responsibilities,  
19 jurisdiction, and rights and privileges specified in Section 25201,  
20 the Department of Energy hereby succeeds to, and is vested with,  
21 all the powers, duties, responsibilities, obligations, liabilities,  
22 jurisdiction, and rights and privileges of all of the following:

23 (a) The California Energy Extension Service of the Office of  
24 Planning and Research.

25 (b) All functions of the Energy Assessment Program or its  
26 successor entity within the Department of General Services.

27 (c) All functions of the Energy Services Programs or their  
28 successor entities in the Office of the State Architect within the  
29 Department of General Services.

30 (d) On and after January 1, 2013, all functions of the Department  
31 of Community Services and Development related to the receipt  
32 and administration of federal energy-related programs including  
33 the Low-Income Home Energy Assistance Program Block Grant,  
34 provided for pursuant to the Low-Income Home Energy Assistance  
35 Act of 1981, as amended (42 U.S.C. Sec. 8621 et seq.), and the  
36 United States Department of Energy Weatherization Assistance  
37 Program, provided for pursuant to Title IV of the Energy  
38 Conservation and Production Act (Public Law 94-385, as amended)  
39 and pursuant to the United States Housing and Urban Development  
40 Residential Lead-Based Paint Hazard Reduction Act of 1992

1 (Public Law 102-550, as amended), *and the receipt and*  
2 *administration of the community service block grants provided*  
3 *pursuant to Subtitle B of Title VI of Public Law 97-35, as amended,*  
4 *and administered pursuant to Chapter 9 (commencing with 12725)*  
5 *of Part 2 of Division 3 of Title 2 of the Government Code.*

6 SEC. 63. Section 25203 of the Public Resources Code is  
7 repealed.

8 SEC. 64. Section 25203 is added to the Public Resources Code,  
9 to read:

10 ~~25203. (a) There is, in the state government, the California~~  
11 ~~Energy Commission, which is hereby created within the~~  
12 ~~Department of Energy.~~

13 ~~(b) The commission shall consist of all of the following:~~

14 ~~(1) The Secretary of Energy, who shall serve as the chair of the~~  
15 ~~commission.~~

16 ~~(2) Four public members with one member meeting each of the~~  
17 ~~following requirements:~~

18 ~~(A) A person having a background in the field of engineering~~  
19 ~~or physical science with knowledge in energy supply or conversion~~  
20 ~~systems.~~

21 ~~(B) A member of the State Bar of California with administrative~~  
22 ~~law experience.~~

23 ~~(C) A person having a background in environmental protection~~  
24 ~~or the study of ecosystems.~~

25 ~~(D) An economist with background and experience in the field~~  
26 ~~of natural resource management.~~

27 ~~(3) The president of the California Public Utilities Commission.~~

28 ~~(4) The Secretary of the Natural Resources Agency.~~

29 ~~(e) The president of the California Public Utilities Commission,~~

30 ~~(e) The Secretary of the Natural Resources Agency shall serve~~  
31 ~~as an ex-officio, nonvoting member of the commission, whose~~  
32 ~~presence shall not be counted for a quorum or for vote~~  
33 ~~requirements.~~

34 ~~(d) (1) The Governor shall appoint the public members of the~~  
35 ~~commission, subject to confirmation by the Senate, for a term of~~  
36 ~~four years. The public members shall serve staggered terms.~~

37 ~~(2) A vacancy shall be filled by the Governor within 30 days~~  
38 ~~of the date on which a vacancy occurs for the unexpired portion~~  
39 ~~of the term in which it occurs or for any new term of office. If the~~  
40 ~~Governor fails to make an appointment for a vacancy within the~~

1 30-day period, the Senate Committee on Rules may make the  
2 appointment to fill the vacancy for the unexpired portion of the  
3 term in which the vacancy occurred or for any new term of office.

4 (3) On or before January 31, 2010, the Governor shall appoint  
5 the initial members of the commission. Every appointment made  
6 by the Governor to the commission shall be subject to the advice  
7 and consent of a majority of the members elected to the Senate.

8 (4) The terms of office of the members of the commission shall  
9 be for four years, except that the members first appointed to the  
10 commission shall classify themselves by lot so that the term of  
11 office of one member shall expire at the end of each one of the  
12 four years following the effective date of this division. Any  
13 vacancy shall be filled by the Governor within 30 days of the date  
14 on which a vacancy occurs for the unexpired portion of the term  
15 in which it occurs or for any new term of office.

16 (5) Each board member holding office on December 31, 2009,  
17 shall continue to serve until his or her successor is appointed and  
18 has been qualified to hold office. The order of replacement shall  
19 be determined by lot.

20 (e) Each member of the commission shall represent the state at  
21 large and not any particular area thereof, and shall serve on a  
22 full-time basis.

23 (f) The secretary may name a designee who may act in the place  
24 of the secretary in hearing any matter before the commission,  
25 except on any matter for which the secretary determines he or she  
26 may have a conflict of interest in hearing a case. The participation  
27 of the designee will count for quorum and voting purposes.

28 (g) The commission hereby succeeds to, and is vested with, all  
29 powers, duties, obligations, liabilities, responsibilities, jurisdiction,  
30 and rights and privileges of the predecessor State Energy Resources  
31 Conservation and Development Commission set forth in Chapter  
32 6 (commencing with Section 25500).

33 (h) Meetings of the commission shall be open to the public and  
34 shall be conducted in accordance with the Bagley-Keene Open  
35 Meeting Act (Article 9 (commencing with Section 11120) of  
36 Chapter 1 of Part 1 of Division 3 of Title 2 of the Government  
37 Code).

38 (i) The secretary may delegate to the commission any duty of  
39 the secretary if the secretary determines that doing so would not  
40 conflict with other responsibilities of the commission and that

1 utilizing the procedures of the commission would serve the public  
2 interest.

3 25203. (a) *There is, in the state government, the California*  
4 *Energy Board, which is hereby created within the Department of*  
5 *Energy.*

6 (b) *The board shall consist of all of the following:*

7 (1) *The Secretary of Energy, who shall serve as the chair of the*  
8 *commission.*

9 (2) *Four public members with one member meeting each of the*  
10 *following requirements:*

11 (A) *A person having a background in the field of engineering*  
12 *or physical science with knowledge in energy supply or conversion*  
13 *systems.*

14 (B) *A member of the State Bar of California with administrative*  
15 *law experience.*

16 (C) *A person having a background in environmental protection*  
17 *or the study of ecosystems.*

18 (D) *An economist with background and experience in the field*  
19 *of natural resource management.*

20 (3) *The president of the California Public Utilities Commission.*

21 (4) *The Secretary of the Natural Resources Agency.*

22 (c) *The president of the California Public Utilities Commission*  
23 *and the Secretary of the Natural Resources Agency shall serve as*  
24 *ex officio, nonvoting members of the board, whose presence shall*  
25 *not be counted for a quorum or for vote requirements.*

26 (d) (1) *The Governor shall appoint the public members of the*  
27 *board, subject to confirmation by the Senate, for a term of four*  
28 *years. The public members shall serve staggered terms.*

29 (2) *A vacancy shall be filled by the Governor within 30 days of*  
30 *the date on which a vacancy occurs for the unexpired portion of*  
31 *the term in which it occurs or for any new term of office. If the*  
32 *Governor fails to make an appointment for a vacancy within the*  
33 *30-day period, the Senate Committee on Rules may make the*  
34 *appointment to fill the vacancy for the unexpired portion of the*  
35 *term in which the vacancy occurred or for any new term of office.*

36 (3) *On or before January 31, 2010, the Governor shall appoint*  
37 *the initial members of the board. Every appointment made by the*  
38 *Governor to the board shall be subject to the advice and consent*  
39 *of a majority of the members elected to the Senate.*

1 (4) *The terms of office of the members of the board shall be for*  
2 *four years, except that the members first appointed to the board*  
3 *shall classify themselves by lot so that the term of office of one*  
4 *member shall expire at the end of each one of the four years*  
5 *following the effective date of this division. Any vacancy shall be*  
6 *filled by the Governor within 30 days of the date on which a*  
7 *vacancy occurs for the unexpired portion of the term in which it*  
8 *occurs or for any new term of office.*

9 (5) *Each board member holding office on December 31, 2009,*  
10 *shall continue to serve until his or her successor is appointed and*  
11 *has been qualified to hold office. The order of replacement shall*  
12 *be determined by lot.*

13 (e) *Each member of the board shall represent the state at large*  
14 *and not any particular area thereof, and shall serve on a full-time*  
15 *basis.*

16 (f) *The secretary may name a designee who may act in the place*  
17 *of the secretary in hearing any matter before the board, except on*  
18 *any matter for which the secretary determines he or she may have*  
19 *a conflict of interest in hearing a case. The participation of the*  
20 *designee will count for quorum and voting purposes.*

21 (g) *The board hereby succeeds to, and is vested with, all powers,*  
22 *duties, obligations, liabilities, responsibilities, jurisdiction, and*  
23 *rights and privileges of the predecessor State Energy Resources*  
24 *Conservation and Development Commission set forth in Chapter*  
25 *6 (commencing with Section 25500).*

26 (h) *Meetings of the board shall be open to the public and shall*  
27 *be conducted in accordance with the Bagley-Keene Open Meeting*  
28 *Act (Article 9 (commencing with Section 11120) of Chapter 1 of*  
29 *Part 1 of Division 3 of Title 2 of the Government Code).*

30 (i) *The secretary may delegate to the board any duty of the*  
31 *secretary if the secretary determines that doing so would not*  
32 *conflict with other responsibilities of the board and that utilizing*  
33 *the procedures of the board would serve the public interest.*

34 (j) *For purposes of this chapter, "board" means the California*  
35 *Energy Board.*

36 SEC. 65. Section 25204 of the Public Resources Code is  
37 repealed.

38 SEC. 66. Section 25204 is added to the Public Resources Code,  
39 to read:

1 25204. (a) All regulations, orders, and guidelines adopted by  
2 an entity listed in subdivision (a) of Section 25201 or an entity  
3 listed in Section 25202 with regard to functions of that entity  
4 described in that section, and any of their predecessors in effect  
5 on or before January 1, 2010, shall remain in effect with respect  
6 to the programs and functions for which they were adopted, and  
7 shall be fully enforceable unless and until readopted, amended, or  
8 repealed, or until they expire by their own terms. All proceedings  
9 pending before an entity listed in subdivision (a) of Section 25201  
10 or an entity listed in Section 25202 shall not abate but continue as  
11 proceedings before the department or commission, as appropriate.

12 (b) Except as otherwise specified, a statute, law, rule, regulation,  
13 or guideline now in force, or that may hereafter be enacted or  
14 adopted that references an entity listed in subdivision (a) of Section  
15 25201, or an entity listed in Section 25202 with regard to functions  
16 of that entity described in that section, or any of their predecessors  
17 shall mean the Department of Energy.

18 (c) An action by or against the entities listed in subdivision (a)  
19 of Section 25201 or Section 25202, or any of their predecessors  
20 shall not abate but, except as provided in Section 25227.3, shall  
21 continue in the name of the Department of Energy and the  
22 department shall be substituted for the entities and any of their  
23 predecessors by the court where the action is pending. The  
24 substitution shall not in any way affect the rights of the parties to  
25 the action.

26 (d) With respect to the members of the California Energy  
27 ~~Commission~~ *Board* other than public members appointed pursuant  
28 to paragraph (2) of subdivision (b) of Section 25203 or continuing  
29 to serve pursuant to paragraph (3) of subdivision (d) of Section  
30 25203, the rule in effect regarding ex parte communications shall  
31 be applicable only as to communications regarding a matter  
32 pending before the commission.

33 SEC. 67. Section 25205 of the Public Resources Code is  
34 amended to read:

35 25205. (a) A person shall not be a member of the commission  
36 ~~pursuant to paragraph (2) of subdivision (b) of Section 25203 who,~~  
37 *who*, during the two years prior to appointment on the commission,  
38 received any substantial portion of his or her income directly or  
39 indirectly from any electric utility, or who engages in sale or  
40 manufacture of any major component of any facility subject to

1 licensing by the commission. A member of the commission shall  
2 not be employed by any electric utility, applicant, or, within two  
3 years after he or she ceases to be a member of the commission, by  
4 any person who engages in the sale or manufacture of any major  
5 component of any facility subject to licensing by the commission.

6 (b) Except as provided in Section 25203, the members of the  
7 commission shall not hold any other elected or appointed public  
8 office or position.

9 (c) The members of the commission and all employees of the  
10 department shall comply with all applicable provisions of Section  
11 19251 of the Government Code.

12 (d) A person who is a member of the commission or employee  
13 of the department shall not participate personally and substantially  
14 as a member of the commission or employee of the department,  
15 through decision, approval, disapproval, recommendation, the  
16 rendering of advice, investigation, or otherwise, in a judicial or  
17 other proceeding, hearing, application, request for a ruling, or other  
18 determination, contract, claim, controversy, study, plan, or other  
19 particular matter in which, to his or her knowledge, he or she, his  
20 or her spouse, minor child, or partner, or any organization, except  
21 a governmental agency or educational or research institution  
22 qualifying as a nonprofit organization under state or federal income  
23 tax law, in which he or she is serving, or has served as officer,  
24 director, trustee, partner, or employee while serving as a member  
25 of the commission or employee of the department or within two  
26 years prior to his or her appointment as a member of the  
27 commission, has a direct or indirect financial interest.

28 (e) A person who is a partner, employer, or employee of a  
29 member or employee of the commission shall not act as an attorney,  
30 agent, or employee for any person other than the state in connection  
31 with any judicial or other proceeding, hearing, application, request  
32 for a ruling, or other determination, contract, claim, controversy,  
33 study, plan, or other particular matter in which the commission is  
34 a party or has a direct and substantial interest.

35 (f) This section shall not apply if the Attorney General finds  
36 that the interest of the member of the commission or employee of  
37 the department is not so substantial as to be deemed likely to affect  
38 the integrity of the services that the state may expect from the  
39 member or employee.

1 (g) A person who violates this section is guilty of a felony and  
2 shall be subject to a fine of not more than ten thousand dollars  
3 (\$10,000) or imprisonment in the state prison, or both.

4 (h) The amendment of subdivision (d) of this section enacted  
5 by the 1975–76 Regular Session of the Legislature does not  
6 constitute a change in, but is declaratory of, existing law.

7 SEC. 68. Section 25205.5 is added to the Public Resources  
8 Code, to read:

9 25205.5. A contract, grant, loan, lease, license, bond, or any  
10 other agreement to which an entity listed in subdivision (a) of  
11 Section 25201, or an entity listed in Section 25202 with regard to  
12 functions of that entity described in that section, or any of their  
13 predecessors are a party shall not be void or voidable by reason  
14 of this act, but shall continue in full force and effect, with the  
15 Department of Energy assuming all the rights, obligations,  
16 liabilities, and duties of the entity and any of its predecessors. That  
17 assumption by the department shall not in any way affect the rights  
18 of the parties to the contract, grant, loan, lease, license, or  
19 agreement. Bonds issued by or on behalf of the entity referred to  
20 in paragraph (1) of subdivision (a) of Section 25201 or the entities  
21 referred to in Section 25202 with regard to the functions transferred  
22 to the department, or issued by or on behalf of any of the  
23 predecessors, on or before January 1, 2010, shall become the  
24 indebtedness of the department. Any ongoing obligations or  
25 responsibilities of the entity or any of its predecessors for managing  
26 and maintaining bond issuances shall be transferred to the newly  
27 created entity without impairment to any security contained in the  
28 bond instrument.

29 SEC. 69. Section 25206 of the Public Resources Code is  
30 repealed.

31 SEC. 70. Section 25206 is added to the Public Resources Code,  
32 to read:

33 25206. On and after January 1, 2010, the unexpended balance  
34 of all funds available for use by the entities listed in subdivision  
35 (a) of Section 25201, or the entities listed in Section 25202 for the  
36 performance of functions of these entities described in that section,  
37 or any of their predecessors in carrying out a function transferred  
38 to the Department of Energy shall be available for use by the  
39 department. Unexpended balances shall be utilized consistent with  
40 the purposes for which they were appropriated. All books,

1 documents, records, and property of the entities shall be transferred  
2 to the department.

3 SEC. 71. Section 25207 of the Public Resources Code is  
4 amended to read:

5 25207. (a) The secretary and the public members of the  
6 commission shall receive the salary provided for by Chapter 6  
7 (commencing with Section 11550) of Part 1 of Division 3 of Title  
8 2 of the Government Code.

9 (b) Each member of the commission shall receive the necessary  
10 traveling and other expenses incurred in the performance of his  
11 official duties. When necessary, the members of the commission  
12 and the employees of the department may travel within or without  
13 the state.

14 SEC. 72. Section 25207.5 is added to the Public Resources  
15 Code, to read:

16 25207.5. (a) An officer or employee of the entities listed in  
17 subdivision (a) of Section 25201 or Section 25202 who is  
18 performing a function transferred to the Department of Energy  
19 and who is serving in the state civil service, other than as a  
20 temporary employee, shall be transferred to the department. The  
21 status, position, and rights of an officer or employee of the entities  
22 shall not be affected by the transfer and shall be retained by the  
23 person as an officer or employee of the department, as the case  
24 may be, pursuant to the State Civil Service Act (Part 2  
25 (commencing with Section 18500) of Division 5 of Title 2 of the  
26 Government Code), except as to a position that is exempt from  
27 civil service.

28 (b) The Department of Energy shall have possession and control  
29 of all records, pages, offices, equipment, supplies, moneys, funds,  
30 appropriations, licenses, permits, agreements, contracts, claims,  
31 judgments, land, and other property, real or personal, connected  
32 with the administration of, or held for, the benefit or use of the  
33 entities listed in subdivision (a) of Section 25201 or for the  
34 performance of the functions listed in Section 25202.

35 SEC. 73. Section 25208 is added to the Public Resources Code,  
36 to read:

37 25208. (a) It is the intent of the Legislature to transfer to the  
38 Department of Energy, the certification of an electric transmission  
39 line, plant, or system, or any extension thereof, ~~on or after January~~  
40 ~~1, 2013.~~

1 (b) For the purposes of this section, an electric line, plant, or  
2 system, or extension thereof, shall be considered “electric  
3 transmission” for either of the following:

4 (1) It has a maximum rated voltage of 200 kilovolts or greater.

5 (2) It has a maximum rated voltage of 100 kilovolts or greater  
6 and certification is sought following inclusion of that facility as  
7 an element of a final transmission expansion plan for the  
8 Independent System Operator.

9 (c) The department, in consultation with the Public Utilities  
10 Commission and the Independent System Operator, shall prepare,  
11 and submit to the Governor and the Legislature on or before  
12 January 1, 2011, a strategic plan that identifies administrative and  
13 statutory measures that, preserving environmental protections,  
14 public participation, and continuity of existing electric transmission  
15 line siting processes, would improve the siting and licensing  
16 process for electric transmission lines. The strategic plan shall  
17 include, but is not limited to, all of the following:

18 (1) An examination of potential process efficiencies associated  
19 with required hearings, site visits, and documents.

20 (2) A review of the impacts on both process efficiency and  
21 public participation of restrictions on communications between  
22 applicants, the public, and staff or decisionmakers.

23 (3) An assessment of the means for improving coordination  
24 with the licensing activities of local jurisdictions and participation  
25 by other state agencies.

26 (4) An assessment of organizational structure issues including  
27 the adequacy of the amounts and organization of current technical  
28 and legal resources.

29 (5) Recommendations for administrative and statutory measures  
30 to improve the siting and licensing process, including  
31 recommendations for the option of siting transmission lines not  
32 owned by an electrical corporation.

33 (6) Recommendations for administering existing electric  
34 transmission siting applications to ensure continuity and  
35 efficiencies.

36 (7) The provision for the transfer of employees serving in the  
37 state civil service, other than temporary employees, who are  
38 engaged in the performance of a function transferred to the  
39 department or engaged in the administration of a law, the  
40 administration of which is transferred to the agency. The status,

1 positions, and rights of those persons shall not be affected by their  
 2 transfer and shall continue to be retained by them pursuant to the  
 3 State Civil Service Act (Part 2 (commencing with Section 18500)  
 4 of Division 5), except as to positions the duties of which are vested  
 5 in a position exempt from civil service.

6 (8) The provision for the transfer or other disposition of the  
 7 personnel records and property affected by any reorganization.

8 (9) Timelines for implementing recommendations.

9 (d) All responsibilities of the ~~Public Utilities~~ *Utilities*  
 10 Commission that are transferred pursuant to subdivision (b) of  
 11 Section 1001 of the Public Utilities Code shall be transferred in  
 12 an expeditious and orderly manner to the Department of Energy  
 13 or the California Energy ~~Commission~~ *Board*, as the case may be.  
 14 Resources, including personnel, associated with responsibilities  
 15 transferred to the department shall also be transferred to the  
 16 department in an expeditious manner. The Secretary of Energy  
 17 may allocate the responsibilities transferred to the department by  
 18 the Public Utilities Commission among the divisions of the  
 19 department.

20 (e) Applications on file before the Public Utilities Commission  
 21 on or before January 1, 2010, may proceed to decision before the  
 22 Public Utilities Commission and the procedural rules and  
 23 substantive regulations of that agency shall apply until a final  
 24 decision on the application.

25 (f) On and after January 1, 2010, all rules and orders in effect  
 26 with respect to the requirements of an application for certificate  
 27 under Section 1001 of the Public Utilities Code, including, but not  
 28 limited to, General Order 131-D of the Public Utilities  
 29 Commission, shall remain in effect and shall also be considered a  
 30 rule of the department. The secretary shall cause timely publication  
 31 of all rules that may be enumerated to effect a logical integration  
 32 with other rules of the department. Any subsequent modification  
 33 of these rules as they apply to the jurisdiction of the department  
 34 shall be carried out in conformance with the procedures of the  
 35 department.

36 (g) The commission and the Public Utilities Commission may,  
 37 by jointly adopted order, provide a mechanism for an applicant to  
 38 move for the transfer of an application pending before the Public  
 39 Utilities Commission for completion before the commission. The

1 order shall preserve the status and rights of any party to an existing  
2 proceeding.

3 SEC. 74. Section 25212 of the Public Resources Code is  
4 amended to read:

5 25212. Every two years the Governor shall designate a vice  
6 chair of the commission from among its members.

7 SEC. 75. Section 25214 of the Public Resources Code is  
8 amended to read:

9 25214. The department and the commission shall maintain  
10 their headquarters in the County of Sacramento. The commission  
11 shall hold meetings at the times and at the places as shall be  
12 determined by it. All meetings and hearings of the commission  
13 shall be open to the public, and opportunity to be heard with respect  
14 to the subject of the hearings shall be afforded to any person. Upon  
15 request, an interested party may be granted reasonable opportunity  
16 to examine any witness testifying at the hearing.

17 SEC. 75.5. Section 25216 of the Public Resources Code is  
18 amended to read:

19 25216. In addition to other duties specified in this division, the  
20 department shall do all of the following:

21 (a) Undertake a continuing assessment of trends in the  
22 consumption of electrical energy and other forms of energy and  
23 analyze the social, economic, and environmental consequences of  
24 these trends; carry out directly, or cause to be carried out, energy  
25 conservation measures specified in Chapter 5 (commencing with  
26 Section 25400) of this division; and recommend to the Governor  
27 and the Legislature new and expanded energy conservation  
28 measures as required to meet the objectives of this division.

29 (b) Collect from electric utilities, gas utilities, and fuel producers  
30 and wholesalers and other sources forecasts of future supplies and  
31 consumption of all forms of energy, including electricity, and of  
32 future energy or fuel production and transporting facilities to be  
33 constructed; independently analyze those forecasts in relation to  
34 statewide estimates of population, economic, and other growth  
35 factors and in terms of the availability of energy resources, costs  
36 to consumers, and other factors; and formally specify statewide  
37 and service area electrical energy demands to be utilized as a basis  
38 for planning the siting and design of electric power generating and  
39 related facilities.

1 (c) Carry out, or cause to be carried out, under contract or other  
 2 arrangements, research and development into alternative sources  
 3 of energy, improvements in energy generation, transmission, and  
 4 siting, fuel substitution, and other topics related to energy supply,  
 5 demand, public safety, ecology, and conservation which are of  
 6 particular statewide importance.

7 SEC. 76. Section 25216.5 of the Public Resources Code is  
 8 amended to read:

9 25216.5. The department shall do all of the following:

10 (a) Prescribe the form and content of applications for facilities;  
 11 conduct public hearings and take other actions to secure adequate  
 12 evaluation of applications; and formally act to approve or  
 13 disapprove applications, including specifying conditions under  
 14 which approval and continuing operation of any facility shall be  
 15 permitted.

16 (b) Prepare an integrated plan specifying actions to be taken in  
 17 the event of an impending serious shortage of energy, or a clear  
 18 threat to public health, safety, or welfare.

19 (c) Evaluate policies governing the establishment of rates for  
 20 electric power and other sources of energy as related to energy  
 21 conservation, environmental protection, and other goals and  
 22 policies established in this division, and transmit recommendations  
 23 for changes in power-pricing policies and rate schedules to the  
 24 Governor, the Legislature, to the Public Utilities Commission, and  
 25 to publicly owned electric utilities.

26 (d) Serve as a central repository within the state government  
 27 for the collection, storage, retrieval, and dissemination of data and  
 28 information on all forms of energy supply, demand, conservation,  
 29 public safety, research, and related subjects. The data and  
 30 information shall be derived from all sources, including, but not  
 31 be limited to, electric and gas utilities, oil and other energy  
 32 producing companies, institutions of higher education, private  
 33 industry, public and private research laboratories, private  
 34 individuals, and from any other source that the department  
 35 determines is necessary to carry out its objectives under this  
 36 division. The department may charge and collect a reasonable fee  
 37 for retrieving and disseminating any information to cover the cost  
 38 of that service. Any funds received by the department pursuant to  
 39 this subdivision shall be deposited in the account and are  
 40 continuously appropriated for expenditure, by the department, for

1 purposes of retrieving and disseminating any such information  
2 pursuant to this section.

3 SEC. 77. Section 25217 of the Public Resources Code is  
4 repealed.

5 SEC. 78. Section 25217.1 of the Public Resources Code is  
6 amended to read:

7 25217.1. The commission shall nominate and the Governor  
8 shall appoint for a term of three years a public adviser to the  
9 commission who shall be an attorney admitted to the practice of  
10 law in this state and who shall carry out the provisions of Section  
11 25222 as well as other duties prescribed by this division or by the  
12 secretary or the commission. The public adviser may be removed  
13 from office only upon the joint concurrence of four commissioners  
14 and the Governor.

15 SEC. 79. Section 25217.5 of the Public Resources Code is  
16 repealed.

17 SEC. 80. Section 25218 of the Public Resources Code is  
18 amended to read:

19 25218. In addition to other powers specified in this division,  
20 the department may do any of the following:

21 (a) Apply for and accept grants, contributions, and  
22 appropriations, and award grants consistent with the goals and  
23 objectives of a program or activity the commission is authorized  
24 to implement or administer.

25 (b) Contract for professional services if the work or services  
26 cannot be satisfactorily performed by its employees or by any other  
27 state agency.

28 (c) Be sued and sue.

29 (d) Request and utilize the advice and services of all federal,  
30 state, local, and regional agencies.

31 (e) Adopt any rule or regulation, or take any action, it deems  
32 reasonable and necessary to carry out this division.

33 (f) Adopt rules and regulations, or take any action, it deems  
34 reasonable and necessary to ensure the free and open participation  
35 of any member of the staff in proceedings before the department.

36 SEC. 80.5. Section 25218.5 of the Public Resources Code is  
37 amended to read:

38 25218.5. The provisions specifying any power or duty of the  
39 department or the commission shall be liberally construed, in order  
40 to carry out the objectives of this division.

1 SEC. 81. Section 25219 of the Public Resources Code is  
2 repealed.

3 SEC. 81.5. Section 25219 is added to the Public Resources  
4 Code, to read:

5 25219. The department shall create a legal subcommittee in  
6 order to collaborate and cooperate in developing a single statewide  
7 position on litigation concerning energy matters within the state.  
8 The subcommittee shall be comprised of:

9 (a) The secretary, or the department’s legal counsel if one has  
10 been employed pursuant to subdivision (e) of Section 25200.

11 (b) The Deputy Secretary of the Office of Energy Market  
12 Oversight pursuant to Section 25228.4.

13 (c) The Attorney General.

14 (d) The President of the California Public Utilities Commission.

15 SEC. 82. Section 25220 of the Public Resources Code is  
16 amended to read:

17 25220. (a) As to any matter involving the federal government,  
18 or departments or agencies, that is within the scope of the power  
19 and duties of the department, the department may represent its  
20 interest or interest of any county, city, state agency, or public  
21 district upon its request, and to that end may correspond, confer,  
22 and cooperate with the federal government, or departments or  
23 agencies.

24 (b) The department may participate as a party, to the extent that  
25 it shall determine, in any proceeding before any federal or state  
26 agency having authority whatsoever to approve or disapprove any  
27 aspect of a proposed facility, receive notice from any applicant of  
28 all applications and pleadings filed subsequently by those  
29 applicants in any of those proceedings, and, by its request, receive  
30 copies of any of the subsequently filed applications and pleadings  
31 that it shall deem necessary.

32 SEC. 83. Section 25221 of the Public Resources Code is  
33 amended to read:

34 25221. Upon request of the department, the Attorney General  
35 shall represent the department and the state in litigation concerning  
36 affairs of the department, unless the Attorney General represents  
37 another state agency, in which case the department shall be  
38 authorized to employ other counsel.

39 SEC. 84. Section 25222 of the Public Resources Code is  
40 amended to read:

1 25222. The adviser shall insure that full and adequate  
2 participation by all interested groups and the public at large is  
3 secured in the planning, site and facility certification, energy  
4 conservation, and emergency allocation procedures provided in  
5 this division. The adviser shall insure that timely and complete  
6 notice of department and commission meetings and public hearings  
7 is disseminated to all interested groups and to the public at large.  
8 The adviser shall also advise these groups and the public as to  
9 effective ways of participating in the department's and the  
10 commission's proceedings. The adviser shall recommend to the  
11 department and the commission additional measures to assure open  
12 consideration and public participation in energy planning, site and  
13 facility certification, energy conservation, and emergency allocation  
14 proceedings.

15 SEC. 85. Section 25223 of the Public Resources Code is  
16 amended to read:

17 25223. (a) Except as provided in subdivision (b), the  
18 department and the commission shall make available any  
19 information filed or submitted pursuant to this division under the  
20 provisions of the California Public Records Act, Chapter 3.5  
21 (commencing with Section 6250) of Division 7, Title 1 of the  
22 Government Code.

23 (b) The department and the commission shall keep confidential  
24 any information submitted to the Division of Oil and Gas of the  
25 Department of Conservation that the division determines, pursuant  
26 to Section 3752, to be proprietary.

27 SEC. 86. Section 25224 of the Public Resources Code is  
28 amended to read:

29 25224. The department and other state agencies shall, to the  
30 fullest extent possible, exchange records, reports, material, and  
31 other information relating to energy resources and conservation  
32 and power facilities siting, or any areas of mutual concern, to the  
33 end that unnecessary duplication of effort may be avoided.

34 SEC. 87. Section 25225 of the Public Resources Code is  
35 amended to read:

36 25225. (a) Prior to expending any funds for any research,  
37 development, or demonstration program or project relating to  
38 vehicles or vehicle fuels, the department shall do both of the  
39 following, using existing resources:

1 (1) Adopt a plan describing any proposed expenditure that sets  
2 forth the expected costs and qualitative as well as quantitative  
3 benefits of the proposed program or project.

4 (2) Find that the proposed program or project will not duplicate  
5 any other past or present publicly funded California program or  
6 project. This paragraph is not intended to prevent funding for  
7 programs or projects jointly funded with another public agency  
8 where there is no duplication.

9 (b) Within 120 days from the date of the conclusion of a program  
10 or project subject to subdivision (a) that is funded by the  
11 department, the department shall issue a public report that sets  
12 forth the actual costs of the program or project, the results achieved  
13 and how they compare with expected costs and benefits determined  
14 pursuant to paragraph (1) of subdivision (a), and any problems  
15 that were encountered by the program or project.

16 (c) This section does not apply to any funds appropriated for  
17 research, development, or demonstration pursuant to a statute that  
18 expressly specifies both of the following:

19 (1) A vehicle technology or vehicle fuel that is the subject of  
20 the research, development, or demonstration.

21 (2) The purpose of, or anticipated products of, the research,  
22 development, or demonstration.

23 SEC. 88. Section 25226 of the Public Resources Code is  
24 amended to read:

25 25226. (a) The Energy Technologies Research, Development,  
26 and Demonstration Account established under former Section  
27 25683 is hereby continued in existence, in the General Fund, to  
28 be administered by the department for the purpose of carrying out  
29 Chapter 7.3 (commencing with Section 25630) and Chapter 7.5  
30 (commencing with Section 25650).

31 (b) The Controller shall deposit in the account all money  
32 appropriated to the account by the Legislature, plus accumulated  
33 interest on that money, and money from loan repayments, interest,  
34 and royalties pursuant to Sections 25630 and 25650, for use by  
35 the department, upon appropriation by the Legislature, for the  
36 purposes specified in Chapter 7.3 (commencing with Section  
37 25630) and Chapter 7.5 (commencing with Section 25650).

38 SEC. 89. Chapter 3.5 (commencing with Section 25227) is  
39 added to Division 15 of the Public Resources Code, to read:

1           CHAPTER 3.5. OFFICE OF ENERGY MARKET OVERSIGHT

2  
3       25227. In order to ensure that the interests of the people of  
4 California are served, there is hereby created within the department,  
5 the Office of Energy Market Oversight. Under the direction of the  
6 Secretary of Energy, the office shall perform all of the following  
7 functions:

8       (a) Oversee the Independent System Operator.

9       (b) Hear and decide appeals of majority decisions of the  
10 Independent System Operator governing board, as they relate to  
11 matters subject to exclusive state jurisdiction, as specified in  
12 Section 25227.3.

13       (c) Investigate any matter related to the wholesale market for  
14 electricity to ensure that the interests of California’s citizens and  
15 consumers are served, protected, and represented in relation to the  
16 availability of electric transmission and generation and related  
17 costs.

18       (d) Appear in all relevant proceedings before the Federal Energy  
19 Regulatory Commission on behalf of California energy consumers  
20 and as the representative of the state’s energy policy.

21       (e) Arrange to obtain all transactional data from a “public utility”  
22 within the meaning of Section 1001 of the Public Utilities Code  
23 or a district established by the Municipal Utility District Act  
24 (Division 6 (commencing with Section 11501) of the Public  
25 Utilities Code) for transactions through the California Independent  
26 System Operator. The office shall review the data quarterly for  
27 unjust or unreasonable pricing or practices that are not subject to  
28 the jurisdiction of the Federal Energy Regulatory Commission.

29       25227.1. (a) Any reference in the law to the “Electricity  
30 Oversight Board” shall mean the Office of Energy Market  
31 Oversight in the Department of Energy, as successor to that board.

32       (b) The Office of Energy Market Oversight may exercise any  
33 right that exists in the name of the former Electricity Oversight  
34 Board and may pursue and continue to final resolution any claim  
35 or right that exists in the name of the Electricity Oversight Board.  
36 It may take an action in its own name, or may maintain it in the  
37 name of the former Electricity Oversight Board, as it determines  
38 will best preserve and protect the interests of the public in those  
39 rights or claims.

1 (c) An action initiated, joined, or pursued by the Office of  
2 Energy Market Oversight shall not be considered an action by any  
3 other office, division, or commission within the Department of  
4 Energy unless specifically stated in a pleading. The office shall  
5 maintain separation and procedures, as are necessary, to prevent  
6 any inappropriate sharing of personnel or flow of proprietary  
7 information between its market monitoring and investigation  
8 functions and any program or function within the department that  
9 has a market interest.

10 (d) Any pending litigation for which there could be a conflict  
11 if combined with another program reorganized under the  
12 Department of Energy, including, but not limited to, the Federal  
13 Energy Regulatory Commission dockets EL02-60 and EL02-62,  
14 and any related appeals or remands, shall be continued by the  
15 Office of Energy Market Oversight in the name of the Electricity  
16 Oversight Board and maintained separate from all other programs  
17 of the department. The office shall report on the resolution of those  
18 cases any such case directly to the legal affairs office of the  
19 Governor.

20 (e) Other agencies that are parties to, or commenting agencies  
21 in, matters before the Federal Energy Regulatory Commission, on  
22 and after January 1, 2010, shall cooperate with the office to  
23 promote coordination of the state's advocacy with respect to those  
24 matters.

25 25227.2. (a) The Office of Energy Market Oversight shall hear  
26 and decide appeals of majority decisions of the Independent System  
27 Operator governing board relating to matters that are identified in  
28 subdivision (b) as they pertain to the Independent System Operator.

29 (b) The following matters are subject to California's exclusive  
30 jurisdiction:

31 (1) Selections by California of governing board members, as  
32 described in Section 345.1 of the Public Utilities Code.

33 (2) Matters pertaining to retail electric service or retail sales of  
34 electric energy.

35 (3) Ensuring that the purposes and functions of the Independent  
36 System Operator are consistent with the purposes and functions  
37 of California nonprofit public benefit corporations, including duties  
38 of care and conflict of interest standards for directors of the  
39 corporations.

- 1 (4) State functions assigned to the Independent System Operator  
2 under state law.
- 3 (5) Open meeting standards and meeting notice requirements.
- 4 (6) Appointment of advisory representatives representing state  
5 interests.
- 6 (7) Public access to corporate records.
- 7 (8) The amendment of bylaws relevant to these matters.
- 8 (c) Only members of the Independent System Operator  
9 governing board may appeal a majority decision of the Independent  
10 System Operator related to any of the matters specified in  
11 subdivision (b) to the Office of Energy Market Oversight.
- 12 25227.3. The Office of Energy Market Oversight may do all  
13 of the following:
- 14 (a) Accept appropriations, grants, or contributions from any  
15 public source, private foundation, or individual.
- 16 (b) Sue and be sued.
- 17 (c) Contract with state, local, or federal agencies for services  
18 or work required by the office.
- 19 (d) Contract for or employ any services or work, including  
20 expert witness and attorney services required by the office that in  
21 its opinion cannot satisfactorily be performed by its staff, by other  
22 subdivisions of the department, or by other state agencies.
- 23 (e) Appoint advisory committees from members of other public  
24 agencies and private groups or individuals.
- 25 (f) Hold hearings at the times and places it may deem proper.
- 26 (g) Issue subpoenas to compel the production of books, records,  
27 papers, accounts, reports, and documents and the attendance of  
28 witnesses.
- 29 (h) Administer oaths.
- 30 (i) Adopt or amend rules and regulations to carry out the  
31 purposes and provisions of this chapter, and to govern the  
32 procedures of the office.
- 33 (j) Exercise any authority consistent with this chapter delegated  
34 to it by a federal agency or authorized to it by federal law.
- 35 (k) Under the direction of the secretary, make recommendations  
36 to the Governor and the Legislature.
- 37 (l) Participate in proceedings relevant to the purposes of this  
38 chapter or to the purposes of Division 4.9 (commencing with  
39 Section 9600) of the Public Utilities Code or consistent with the  
40 policies of the department, participate in activities to promote the

1 formation of interstate agreements to enhance the reliability and  
 2 function of the electricity system and the electricity market.

3 (m) Do any and all other things necessary to carry out the  
 4 purposes of this chapter.

5 25228. (a) The Office of Energy Market Oversight may adopt  
 6 rules or protective orders to protect the confidential status of market  
 7 sensitive information.

8 (b) Information made confidential pursuant to a federally  
 9 approved tariff that is obtained by the department or the office is  
 10 confidential and prohibited from disclosure without the consent  
 11 of the source of information except as required by a court order  
 12 or other legal process.

13 25228.2. (a) The Office of Energy Market Oversight in the  
 14 department succeeds to and is vested with all duties,  
 15 responsibilities, powers, jurisdiction, liabilities, and functions of  
 16 the Electricity Oversight Board, which is hereby abolished. Any  
 17 reference in any law to the duties, responsibilities, powers, and  
 18 functions of the Electricity Oversight Board, which no longer  
 19 exists, shall be considered a reference to the Office of Energy  
 20 Market Oversight unless the context otherwise requires.

21 (b) All officers and employees of the Electricity Oversight Board  
 22 who, on January 1, 2010, are serving in the state civil service, other  
 23 than as temporary employees, shall be transferred to the  
 24 Department of Energy pursuant to Section 19050.9 of the  
 25 Government Code. The status, position, and rights of any officer  
 26 or employee of the board shall not be affected by the transfer and  
 27 shall be retained by the person as an officer or employee of the  
 28 department, as the case may be, pursuant to the State Civil Service  
 29 Act (Part 2 (commencing with Section 18500) of Division 5 of  
 30 Title 2 of the Government Code), except as to a position that is  
 31 exempt from civil service.

32 (c) As soon as practicable, the Secretary of Energy shall report  
 33 to the Department of Finance on whether the resources transferred  
 34 to the department are sufficient to ensure that all of the state's  
 35 interests can be adequately represented under subdivision (d) of  
 36 Section 25227. The Department of Finance shall assess whether  
 37 the consolidation of this function under the department allows the  
 38 transfer of any resources previously used to support this function  
 39 within any other agency to the department.

1 25228.4. The Governor may appoint, and fix the salary of, a  
2 deputy who shall have charge of administering the affairs of the  
3 Office of the Energy Market Oversight, including entering into  
4 contracts, subject to policies of the department. Notwithstanding  
5 Sections 11042 and 11043 of the Government Code, the  
6 commission shall appoint an attorney who shall advise and  
7 represent the commission and the People of the State of California  
8 as a party in any state or federal action, proceeding, or litigation  
9 related to the purposes of this chapter or to an action of the  
10 commission and who shall perform generally all the duties of  
11 attorney with respect to the commission.

12 SEC. 90. Section 25301 of the Public Resources Code is  
13 amended to read:

14 25301. (a) At least every two years, the department shall  
15 conduct assessments and forecasts of all aspects of energy industry  
16 supply, production, transportation, delivery and distribution,  
17 demand, and prices. The department shall use these assessments  
18 and forecasts to develop energy policies that conserve resources,  
19 protect the environment, ensure energy reliability, enhance the  
20 state's economy, and protect public health and safety. To perform  
21 these assessments and forecasts, the department may require  
22 submission of demand forecasts, resource plans, market  
23 assessments, and related outlooks from electric and natural gas  
24 utilities, transportation fuel and technology suppliers, and other  
25 market participants. These assessments and forecasts shall be done  
26 in consultation with the California Independent System Operator  
27 and the appropriate state and federal agencies including, but not  
28 limited to, the Public Utilities Commission, the Division of  
29 Ratepayer Advocates, the Air Resources Board, the Department  
30 of Water Resources, the State Department of Transportation, and  
31 the Department of Motor Vehicles.

32 (b) In developing the assessments and forecasts prepared  
33 pursuant to subdivision (a), the department shall do all of the  
34 following:

35 (1) Provide information about the performance of energy  
36 industries.

37 (2) Develop and maintain the analytical capability sufficient to  
38 answer inquiries about energy issues from government, market  
39 participants, and the public.

40 (3) Analyze and develop energy policies.

1 (4) Provide an analytical foundation for regulatory and policy  
2 decisionmaking.

3 (5) Facilitate efficient and reliable energy markets.

4 SEC. 91. Section 25302 of the Public Resources Code is  
5 amended to read:

6 25302. (a) Beginning November 1, 2003, and every two years  
7 thereafter, the ~~department~~ *commission* shall adopt an integrated  
8 energy policy report. This integrated report shall contain an  
9 overview of major energy trends and issues facing the state,  
10 including, but not limited to, supply, demand, pricing, reliability,  
11 efficiency, and impacts on public health and safety, the economy,  
12 resources, and the environment. Energy markets and systems shall  
13 be grouped and assessed in three subsidiary volumes:

14 (1) Electricity and natural gas markets.

15 (2) Transportation fuels, technologies, and infrastructure.

16 (3) Public interest energy strategies.

17 (b) The department shall compile the integrated energy policy  
18 report prepared pursuant to subdivision (a) by consolidating the  
19 analyses and findings of the subsidiary volumes in paragraphs (1),  
20 (2), and (3) of subdivision (a). The integrated energy policy report  
21 shall present policy recommendations based on an indepth and  
22 integrated analysis of the most current and pressing energy issues  
23 facing the state. The analyses supporting this integrated energy  
24 policy report shall explicitly address interfuel and intermarket  
25 effects to provide a more informed evaluation of potential tradeoffs  
26 when developing energy policy across different markets and  
27 systems.

28 (c) The integrated energy policy report shall include an  
29 assessment and forecast of system reliability and the need for  
30 resource additions, efficiency, and conservation that considers all  
31 aspects of energy industries and markets that are essential for the  
32 state economy, general welfare, public health and safety, energy  
33 diversity, and protection of the environment. This assessment shall  
34 be based on determinations made pursuant to this chapter.

35 (d) Beginning November 1, 2004, and every two years thereafter,  
36 the department shall prepare an energy policy review to update  
37 analyses from the integrated energy policy report prepared pursuant  
38 to subdivisions (a), (b), and (c), or to raise energy issues that have  
39 emerged since the release of the integrated energy policy report.  
40 The department may also periodically prepare and release technical

1 analyses and assessments of energy issues and concerns to provide  
2 timely and relevant information for the Governor, the Legislature,  
3 market participants, and the public.

4 (e) In preparation of the report, the department shall consult  
5 with the following entities: the Public Utilities Commission, the  
6 Division of Ratepayer Advocates, the State Air Resources Board,  
7 the Independent System Operator, the Department of Water  
8 Resources the Department of Transportation, and the Department  
9 of Motor Vehicles, and any federal, state, and local agencies it  
10 deems necessary in preparation of the integrated energy policy  
11 report. To assure collaborative development of state energy  
12 policies, these agencies shall make a good faith effort to provide  
13 data, assessment, and proposed recommendations for review by  
14 the department.

15 (f) The department shall provide the report to the Public Utilities  
16 Commission, the Division of Ratepayer Advocates, the State Air  
17 Resources Board, the Independent System Operator, the  
18 Department of Water Resources, and the Department of  
19 Transportation. For the purpose of ensuring consistency in the  
20 underlying information that forms the foundation of energy policies  
21 and decisions affecting the state, those entities shall carry out their  
22 energy-related duties and responsibilities based upon the  
23 information and analyses contained in the report. If an entity listed  
24 in this subdivision objects to information contained in the report,  
25 and has a reasonable basis for that objection, the entity shall not  
26 be required to consider that information in carrying out its  
27 energy-related duties.

28 (g) The department shall make the report accessible to state,  
29 local, and federal entities and to the general public.

30 SEC. 92. Section 25303 of the Public Resources Code is  
31 amended to read:

32 25303. (a) The department shall conduct electricity and natural  
33 gas forecasting and assessment activities to meet the requirements  
34 of paragraph (1) of subdivision (a) of Section 25302, including,  
35 but not limited to, all of the following:

36 (1) Assessment of trends in electricity and natural gas supply  
37 and demand, and the outlook for wholesale and retail prices for  
38 commodity electricity and natural gas under current market  
39 structures and expected market conditions.

1 (2) Forecasts of statewide and regional electricity and natural  
2 gas demand including annual, seasonal, and peak demand, and the  
3 factors leading to projected demand growth, including, but not  
4 limited to, projected population growth, urban development,  
5 industrial expansion and energy intensity of industries, energy  
6 demand for different building types, energy efficiency, and other  
7 factors influencing demand for electricity. With respect to  
8 long-range forecasts of the demand for natural gas, the report shall  
9 include an evaluation of average conditions, as well as best and  
10 worst case scenarios, and an evaluation of the impact of the  
11 increasing use of renewable resources on natural gas demand.

12 (3) Evaluation of the adequacy of electricity and natural gas  
13 supplies to meet forecasted demand growth. Assessment of the  
14 availability, reliability, and efficiency of the electricity and natural  
15 gas infrastructure and systems, including, but not limited to, natural  
16 gas production capability both in and out of state, natural gas  
17 interstate and intrastate pipeline capacity, storage and use, and  
18 western regional and California electricity and transmission system  
19 capacity and use.

20 (4) Evaluation of potential impacts of electricity and natural gas  
21 supply, demand, and infrastructure and resource additions on the  
22 electricity and natural gas systems, public health and safety, the  
23 economy, resources, and the environment.

24 (5) Evaluation of the potential impacts of electricity and natural  
25 gas load management efforts, including end-user response to  
26 market price signals, as a means to ensure reliable operation of  
27 electricity and natural gas systems.

28 (6) Evaluation of whether electricity and natural gas markets  
29 are adequately meeting public interest objectives including the  
30 provision of all of the following: economic benefits; competitive,  
31 low-cost reliable services; customer information and protection;  
32 and environmentally sensitive electricity and natural gas supplies.  
33 This evaluation may consider the extent to which California is an  
34 element within western energy markets, the existence of appropriate  
35 incentives for market participants to provide supplies and for  
36 consumers to respond to energy prices, appropriate identification  
37 of responsibilities of various market participants, and an assessment  
38 of long-term versus short-term market performance. To the extent  
39 this evaluation identifies market shortcomings, the department  
40 shall propose market structure changes to improve performance.

1 (7) Identification of impending or potential problems or  
2 uncertainties in the electricity and natural gas markets, potential  
3 options and solutions, and recommendations.

4 (8) (A) Compilation and assessment of existing scientific studies  
5 that have been performed by persons or entities with expertise and  
6 qualifications in the subject of the studies to determine the potential  
7 vulnerability to a major disruption due to aging or a major seismic  
8 event of large baseload generation facilities, of 1,700 megawatts  
9 or greater.

10 (B) The assessment specified in subparagraph (A) shall include  
11 an analysis of the impact of a major disruption on system reliability,  
12 public safety, and the economy.

13 (C) The department may work with other public entities and  
14 public agencies, including, but not limited to, the Public Utilities  
15 Commission, the Department of Conservation, and the Seismic  
16 Safety Commission as necessary, as well as the California  
17 Independent System Operator to gather and analyze the information  
18 required by this paragraph.

19 (D) Upon completion and publication of the initial review of  
20 the information required pursuant to this paragraph, the commission  
21 shall perform subsequent updates as new data or new understanding  
22 of potential seismic hazards emerge.

23 (b) Commencing November 1, 2003, and every two years  
24 thereafter, to be included in the integrated energy policy report  
25 prepared pursuant to Section 25302, the department shall assess  
26 the current status of the following:

27 (1) The environmental performance of the electric generation  
28 facilities of the state, to include all of the following:

29 (A) Generation facility efficiency.

30 (B) Air emission control technologies in use in operating plants.

31 (C) The extent to which recent resource additions have, and  
32 expected resource additions are likely to, displace or reduce the  
33 operation of existing facilities, including the environmental  
34 consequences of these changes.

35 (2) The geographic distribution of statewide environmental,  
36 efficiency, and socioeconomic benefits and drawbacks of existing  
37 generation facilities, including, but not limited to, the impacts on  
38 natural resources including wildlife habitat, air quality, and water  
39 resources, and the relationship to demographic factors. The  
40 assessment shall describe the socioeconomic and demographic

1 factors that existed when the facilities were constructed and the  
2 current status of these factors. In addition, the report shall include  
3 how expected or recent resource additions could change the  
4 assessment through displaced or reduced operation of existing  
5 facilities.

6 (c) In the absence of a long-term nuclear waste storage facility,  
7 the department shall assess the potential state and local costs and  
8 impacts associated with accumulating waste at California's nuclear  
9 powerplants. The department shall further assess other key policy  
10 and planning issues that will affect the future role of nuclear  
11 powerplants in the state.

12 SEC. 93. Section 25304 of the Public Resources Code is  
13 amended to read:

14 25304. The department shall conduct transportation forecasting  
15 and assessment activities to meet the requirements of paragraph  
16 (2) of subdivision (a) of Section 25302 including, but not limited  
17 to:

18 (a) Assessment of trends in transportation fuels, technologies,  
19 and infrastructure supply and demand and the outlook for wholesale  
20 and retail prices for petroleum, petroleum products, and alternative  
21 transportation fuels under current market structures and expected  
22 market conditions.

23 (b) Forecasts of statewide and regional transportation energy  
24 demand, both annual and seasonal, and the factors leading to  
25 projected demand growth including, but not limited to, projected  
26 population growth, urban development, vehicle miles traveled, the  
27 type, class, and efficiency of personal vehicles and commercial  
28 fleets, and shifts in transportation modes.

29 (c) Evaluation of the sufficiency of transportation fuel supplies,  
30 technologies, and infrastructure to meet projected transportation  
31 demand growth. Assessment of crude oil and other transportation  
32 fuel feedstock supplies; in-state, national, and worldwide  
33 production and refining capacity; product output storage  
34 availability; and transportation and distribution systems capacity  
35 and use.

36 (d) Assessments of the risks of supply disruptions, price shocks,  
37 or other events and the consequences of these events on the  
38 availability and price of transportation fuels and effects on the  
39 state's economy.

1 (e) Evaluation of the potential for needed changes in the state’s  
2 energy shortage contingency plans to increase production and  
3 productivity, improve efficiency of fuel use, increase conservation  
4 of resources, and other actions to maintain sufficient, secure, and  
5 affordable transportation fuel supplies for the state.

6 (f) Evaluation of alternative transportation energy scenarios, in  
7 the context of least environmental and economic costs, to examine  
8 potential effects of alternative fuels usage, vehicle efficiency  
9 improvements, and shifts in transportation modes on public health  
10 and safety, the economy, resources, the environment, and energy  
11 security.

12 (g) Examination of the success of introduction, prices, and  
13 availability of advanced transportation technologies, low- or  
14 zero-emission vehicles, and clean-burning transportation fuels,  
15 including their potential future contributions to air quality, energy  
16 security, and other public interest benefits.

17 (h) Recommendations to improve the efficiency of transportation  
18 energy use, reduce dependence on petroleum fuels, decrease  
19 environmental impacts from transportation energy use, and  
20 contribute to reducing congestion, promoting economic  
21 development, and enhancing energy diversity and security.

22 SEC. 94. Section 25305 of the Public Resources Code is  
23 amended to read:

24 25305. The department shall rely upon forecasting and  
25 assessments performed in accordance with Sections 25301 to  
26 25304, inclusive, as the basis for analyzing the success of and  
27 developing policy recommendations for public interest energy  
28 strategies. Public interest energy strategies include, but are not  
29 limited to, achieving energy efficiency and energy conservation;  
30 implementing load management; pursuing research, development,  
31 demonstration, and commercialization of new technologies;  
32 promoting renewable generation technologies; reducing statewide  
33 greenhouse gas emissions and addressing the impacts of climate  
34 change on California; stimulating California’s energy-related  
35 business activities to contribute to the state’s economy; and  
36 protecting and enhancing the environment. Additional assessments  
37 to address public interest energy strategies shall include, but are  
38 not limited to, all of the following:

39 (a) Identification of emerging trends in energy efficiency in the  
40 residential, commercial, industrial, agricultural, and transportation

1 sectors of the state’s economy, including, but not limited to,  
2 evaluation of additional achievable energy efficiency measures  
3 and technologies. Identification of policies that would permit fuller  
4 realization of the potential for energy efficiency, either through  
5 direct programmatic actions or facilitation of the market.

6 (b) Identification of emerging trends in the renewable energy  
7 industry. In addition, the department shall evaluate progress in  
8 ensuring the operation of existing facilities, and the development  
9 of new and emerging, in-state renewable resources.

10 (c) Identification of emerging trends in energy research,  
11 development, and demonstration activities that advance science  
12 or technology to produce public benefits.

13 (d) Identification of progress in reducing statewide greenhouse  
14 gas emissions and addressing the effects of climate change on  
15 California.

16 SEC. 95. Section 25305.5 of the Public Resources Code is  
17 amended to read:

18 25305.5. The department shall include in its report prepared  
19 pursuant to Sections 25301 to 25304, inclusive, a description of  
20 international energy market prospects and an evaluation of its  
21 export promotion activities, as well as an assessment of the state  
22 of the California energy technology and energy conservation  
23 industry’s efforts to enter foreign markets. The report shall also  
24 include recommendations for state government initiatives to foster  
25 the California energy technology and energy conservation  
26 industry’s competition in world markets.

27 SEC. 96. Section 25306 of the Public Resources Code is  
28 amended to read:

29 25306. The department shall conduct workshops, hearings,  
30 and other forums to gain the perspectives of the public and market  
31 participants for purposes of the integrated energy policy report  
32 prepared pursuant to Section 25302 and the forecasting and  
33 assessments prepared pursuant to Sections 25301, 25303, 25304,  
34 and 25305. The department shall include the comments, as well  
35 as responses to those comments, of governmental agencies, industry  
36 representatives, market participants, private groups, and any other  
37 person concerning the department’s proposals and  
38 recommendations in the docket for the integrated energy policy  
39 report.

1 SEC. 96.5. Section 25310 of the Public Resources Code is  
2 amended to read:

3 25310. On or before November 1, 2007, and by November 1  
4 of every third year thereafter, the department in consultation with  
5 the Public Utilities Commission and local publicly owned electric  
6 utilities, in a public process that allows input from other  
7 stakeholders, shall develop a statewide estimate of all potentially  
8 achievable cost-effective electricity and natural gas efficiency  
9 savings and establish targets for statewide annual energy efficiency  
10 savings and demand reduction for the next 10-year period. The  
11 department shall base its estimate at least in part on information  
12 developed pursuant to Sections 454.55, 454.56, and 9615 of the  
13 Public Utilities Code. The department shall, for each electrical  
14 corporation and each gas corporation, include in the integrated  
15 energy policy report, a comparison of the public utility's annual  
16 targets established pursuant to Sections 454.55 and 454.56, and  
17 the public utility's actual energy efficiency savings and demand  
18 reductions.

19 SEC. 97. Section 25320 of the Public Resources Code is  
20 amended to read:

21 25320. (a) The department shall manage a data collection  
22 system for obtaining information necessary to develop the policy  
23 reports and analyses required by Sections 25301 to 25307,  
24 inclusive, the energy shortage contingency planning efforts in  
25 Chapter 8 (commencing with Section 25700), and to support other  
26 duties of the department.

27 (b) The data collection system, adopted by regulation under  
28 Chapter 3.5 (commencing with Section 11340) of Part 1 of Division  
29 3 of Title 2 of the Government Code, and managed by the  
30 department shall:

31 (1) Include a timetable for the submission of this information,  
32 so that the integrated energy policy report required by Section  
33 25302 can be completed in an accurate and timely manner.

34 (2) Require a person to submit only information that is  
35 reasonably relevant, and that the person can either be expected to  
36 acquire through his or her market activities, or possesses or  
37 controls. Information collected pursuant to this section shall relate  
38 to the functional role of each category of market participant in that  
39 industry and the consumers within that industry.

1 (3) To the extent it satisfies the information needs of the  
2 department, rely on the use of estimates and proxies, to the  
3 maximum extent practicable, for some data elements using survey  
4 and research techniques, while for other information it shall obtain  
5 data from market participants using submissions consistent with  
6 their accounting records. In determining whether to rely upon  
7 estimates or participant provided data, the department shall weigh  
8 the burden of compliance upon industry participants and energy  
9 consumers against the benefit of participant provided data for the  
10 public interest.

11 (4) To the extent it satisfies the information needs of the  
12 department, rely on data, to the maximum extent practicable, that  
13 is reported to other government agencies or is otherwise available  
14 to the department.

15 (c) Pursuant to the requirements of subdivision (b), the data  
16 collection system for electricity and natural gas shall enumerate  
17 specific requirements for each category of market participants,  
18 including, but not limited to, private market participants, energy  
19 service providers, energy service companies, natural gas marketers,  
20 electric utility and natural gas utility companies, independent  
21 generators, electric transmission entities, natural gas producers,  
22 natural gas pipeline operators, importers and exporters of electricity  
23 and natural gas, and specialized electric or natural gas system  
24 operators. The department may also collect information about  
25 consumers' natural gas and electricity use from their voluntary  
26 participation in surveys and other research techniques.

27 (d) Pursuant to the requirements of subdivision (b), the data  
28 collection system for nonpetroleum fuels and transportation  
29 technologies shall enumerate specific requirements for each  
30 category of market participant, including, but not limited to, fuel  
31 importers and exporters, fuel distributors and retailers, fuel pipeline  
32 operators, natural gas liquid producers, and transportation  
33 technology providers. The department may also collect information  
34 about consumers' nonpetroleum fuel and transportation technology  
35 use from their voluntary participation in surveys and other research  
36 techniques.

37 (e) The department shall collect data for petroleum fuel pursuant  
38 to Chapter 4.5 (commencing with Section 25350). The department  
39 may also collect information about consumers' petroleum fuel use

1 from consumers' participation in surveys and other research  
2 techniques.

3 SEC. 98. Section 25321 of the Public Resources Code is  
4 amended to read:

5 25321. In order to ensure timely and accurate compliance with  
6 the data collection system adopted under Section 25320, the  
7 department may use any of the following enforcement measures:

8 (a) If a person fails to comply with an applicable provision of  
9 the data collection system, the department shall notify the person.  
10 If, after five working days from being notified of the violation, the  
11 person continues to fail to comply, the person shall be subject to  
12 a civil penalty, to be imposed by the department after a hearing  
13 that complies with constitutional requirements.

14 (1) The civil penalty shall not be less than five hundred dollars  
15 (\$500) nor more than two thousand dollars (\$2,000) for each  
16 category of data the person did not provide and for each day the  
17 violation has existed and continues to exist.

18 (2) In the case of a person who willfully makes any false  
19 statement, representation, or certification in any record, report,  
20 plan, or other document filed with the department, the civil penalty  
21 shall not be less than five hundred dollars (\$500) nor more than  
22 two thousand dollars (\$2,000) per day applied to each day in the  
23 interval between the original due date and the date when corrected  
24 information is submitted.

25 (b) For the purposes of this section, "person" means, in addition  
26 to the definition contained in Section 25116, any responsible  
27 corporate officer.

28 (c) Enforcement measures for petroleum and other fuels shall  
29 be those contained in Section 25362.

30 SEC. 99. Section 25322 of the Public Resources Code is  
31 amended to read:

32 25322. (a) The data collection system managed pursuant to  
33 Section 25320 shall include the following requirements regarding  
34 the confidentiality of the information collected by the department:

35 (1) A person required to present information to the department  
36 pursuant to this section may request that specific information be  
37 held in confidence. The department shall grant the request in any  
38 of the following circumstances:

1 (A) The information is exempt from disclosure under the  
2 California Public Records Act, Chapter 3.5 (commencing with  
3 Section 6250) of Division 7 of Title 1 of the Government Code.

4 (B) The information satisfies the confidentiality requirements  
5 of Article 2 (commencing with Section 2501) of Chapter 7 of  
6 Division 2 of Title 20 of the California Code of Regulations, as  
7 those regulations existed on January 1, 2002.

8 (C) On the facts of the particular case, the public interest served  
9 by not disclosing the information clearly outweighs the public  
10 interest served by disclosure of the information.

11 (2) The department may, by regulation, designate certain  
12 categories of information as confidential, which removes the  
13 obligation to request confidentiality for that information.

14 (3) Any confidential information pertinent to the responsibilities  
15 of the department specified in this chapter that is obtained by  
16 another state agency, or the California Independent System  
17 Operator or its successor, shall be available to the department and  
18 shall be treated in a confidential manner.

19 (4) Information presented to or developed by the department  
20 and deemed confidential pursuant to this section shall be held in  
21 confidence by the department. Confidential information shall be  
22 aggregated or masked to the extent necessary to assure  
23 confidentiality if public disclosure of the specific information  
24 would result in an unfair competitive disadvantage to the person  
25 supplying the information.

26 (b) Requests for records of information shall be handled as  
27 follows:

28 (1) If the department receives a written request to publicly  
29 disclose information that is being held in confidence pursuant to  
30 paragraph (1) or (2) of subdivision (a), the department shall provide  
31 the person making the request with written justification for the  
32 confidential designation and a description of the process to seek  
33 disclosure.

34 (2) If the department receives a written request to publicly  
35 disclose a disaggregated or unmasked record of information  
36 designated as confidential under paragraph (1) or (2) of subdivision  
37 (a), notice of the request shall be provided to the person that  
38 submitted the record. Upon receipt of the notice, the person that  
39 submitted the record may, within five working days of receipt of

1 the notice, provide a written justification of the claim of  
2 confidentiality.

3 (3) The department or its designee shall rule on a request made  
4 pursuant to paragraph (2) on or before 20 working days after its  
5 receipt. The department shall deny the request if the disclosure  
6 will result in an unfair competitive disadvantage to the person that  
7 submitted the information.

8 (4) If the department grants the request pursuant to paragraph  
9 (3), it shall withhold disclosure for a reasonable amount of time,  
10 not to exceed 14 working days, to allow the submitter of the  
11 information to seek judicial review.

12 (c) Information submitted to the department pursuant to this  
13 section is not confidential if the person submitting the information  
14 has made it public.

15 (d) The department shall establish, maintain, and use appropriate  
16 security practices and procedures to ensure that the information it  
17 has designated as confidential, or received with a confidential  
18 designation from another government agency, is protected against  
19 disclosure other than that authorized using the procedures in  
20 subdivision (b). The department shall incorporate the following  
21 elements into its security practices and procedures:

22 (1) Department employees shall sign a confidential data  
23 disclosure agreement providing for various remedies, including,  
24 but not limited to, fines and termination for wrongful disclosure  
25 of confidential information.

26 (2) Department employees, or contract employees of the  
27 department, shall only have access to confidential information  
28 when it is appropriate to their job assignments and if they have  
29 signed a nondisclosure agreement.

30 (3) Computer data systems that hold confidential information  
31 shall include sufficient security measures to protect the data from  
32 inadvertent or wrongful access by unauthorized department  
33 employees and the public.

34 (e) Data collected by the department on petroleum fuels in  
35 Section 25320 shall be subject to the confidentiality provisions of  
36 Sections 25364 to 25366, inclusive.

37 SEC. 100. Section 25323 of the Public Resources Code is  
38 amended to read:

1 25323. This division does not authorize the department in the  
2 performance of its analytical, planning, siting, or certification  
3 responsibilities to mandate a specified supply plan for any utility.

4 SEC. 101. Section 25324 of the Public Resources Code is  
5 amended to read:

6 25324. The department, in consultation with the Public Utilities  
7 Commission, the California Independent System Operator,  
8 transmission owners, users, and consumers, shall adopt a strategic  
9 plan for the state's electric transmission grid using existing  
10 resources. The strategic plan shall identify and recommend actions  
11 required to implement investments needed to ensure reliability,  
12 relieve congestion, and meet future growth in load and generation,  
13 including, but not limited to, renewable resources, energy  
14 efficiency, and other demand reduction measures. The plan shall  
15 be included in each integrated energy policy report adopted  
16 pursuant to subdivision (a) of Section 25302.

17 SEC. 102. Section 25354 of the Public Resources Code is  
18 amended to read:

19 25354. (a) Each refiner and major marketer shall submit  
20 information each month to the department in the form and extent  
21 as the department prescribes pursuant to this section. The  
22 information shall be submitted within 30 days after the end of each  
23 monthly reporting period and shall include the following:

24 (1) Refiners shall report, for each of their refineries, feedstock  
25 inputs, origin of petroleum receipts, imports of finished petroleum  
26 products and blendstocks, by type, including the source of those  
27 imports, exports of finished petroleum products and blendstocks,  
28 by type, including the destination of those exports, refinery outputs,  
29 refinery stocks, and finished product supply and distribution,  
30 including all gasoline sold unbranded by the refiner, blender, or  
31 importer.

32 (2) Major marketers shall report on petroleum product receipts  
33 and the sources of these receipts, inventories of finished petroleum  
34 products and blendstocks, by type, distributions through branded  
35 and unbranded distribution networks, and exports of finished  
36 petroleum products and blendstocks, by type, from the state.

37 (b) Each major oil producer, refiner, marketer, oil transporter,  
38 and oil storer shall annually submit information to the department  
39 in the form and extent as the department prescribes pursuant to  
40 this section. The information shall be submitted within 30 days

1 after the end of each reporting period, and shall include the  
2 following:

3 (1) Major oil transporters shall report on petroleum by reporting  
4 the capacities of each major transportation system, the amount  
5 transported by each system, and inventories thereof. The  
6 department may prescribe rules and regulations that exclude  
7 pipeline and transportation modes operated entirely on property  
8 owned by major oil transporters from the reporting requirements  
9 of this section if the data or information is not needed to fulfill the  
10 purposes of this chapter. The provision of the information shall  
11 not be construed to increase or decrease any authority the Public  
12 Utilities Commission may otherwise have.

13 (2) Major oil storers shall report on storage capacity, inventories,  
14 receipts and distributions, and methods of transportation of receipts  
15 and distributions.

16 (3) Major oil producers shall, with respect to thermally enhanced  
17 oil recovery operations, report annually by designated oil field,  
18 the monthly use, as fuel, of crude oil and natural gas.

19 (4) Refiners shall report on facility capacity, and utilization and  
20 method of transportation of refinery receipts and distributions.

21 (5) Major oil marketers shall report on facility capacity and  
22 methods of transportation of receipts and distributions.

23 (c) Each person required to report pursuant to subdivision (a)  
24 shall submit a projection each month of the information to be  
25 submitted pursuant to subdivision (a) for the quarter following the  
26 month in which the information is submitted to the department.

27 (d) In addition to the data required under subdivision (a), each  
28 integrated oil refiner (produces, refines, transports, and markets  
29 in interstate commerce) who supplies more than 500 branded retail  
30 outlets in California shall submit to the department an annual  
31 industry forecast for Petroleum Administration for Defense, District  
32 V (covering Arizona, Nevada, Washington, Oregon, California,  
33 Alaska, and Hawaii). The forecast shall include the information  
34 to be submitted under subdivision (a), and shall be submitted by  
35 March 15 of each year. The department may require  
36 California-specific forecasts. However, those forecasts shall be  
37 required only if the department finds them necessary to carry out  
38 its responsibilities.

1 (e) The department may by order or regulation modify the  
2 reporting period as to any individual item of information setting  
3 forth in the order or regulation its reason for so doing.

4 (f) The department may request additional information as  
5 necessary to perform its responsibilities under this chapter.

6 (g) A person required to submit information or data under this  
7 chapter, in lieu thereof, may submit a report made to any other  
8 governmental agency, if:

9 (1) The alternate report or reports contain all of the information  
10 or data required by specific request under this chapter.

11 (2) The person clearly identifies the specific request to which  
12 the alternate report is responsive.

13 (h) Each refiner shall submit to the department, within 30 days  
14 after the end of each monthly reporting period, all of the following  
15 information in such form and extent as the department prescribes:

16 (1) Monthly California weighted average prices and sales  
17 volumes of finished leaded regular, unleaded regular, and premium  
18 motor gasoline sold through company-operated retail outlets, to  
19 other end-users, and to wholesale customers.

20 (2) Monthly California weighted average prices and sales  
21 volumes for residential sales, commercial and institutional sales,  
22 industrial sales, sales through company-operated retail outlets,  
23 sales to other end-users, and wholesale sales of No. 2 diesel fuel  
24 and No. 2 fuel oil.

25 (3) Monthly California weighted average prices and sales  
26 volumes for retail sales and wholesale sales of No. 1 distillate,  
27 kerosene, finished aviation gasoline, kerosene-type jet fuel, No. 4  
28 fuel oil, residual fuel oil with 1 percent or less sulfur, residual fuel  
29 oil with greater than 1 percent sulfur and consumer grade propane.

30 (i) (1) Beginning the first week after the effective date of the  
31 act that added this subdivision, and each week thereafter, an oil  
32 refiner, oil producer, petroleum product transporter, petroleum  
33 product marketer, petroleum product pipeline operator, and  
34 terminal operator, as designated by the department, shall submit  
35 a report in the form and extent as the department prescribes  
36 pursuant to this section. The department may determine the form  
37 and extent necessary by order or by regulation.

38 (2) A report may include any of the following information:

39 (A) Receipts and inventory levels of crude oil and petroleum  
40 products at each refinery and terminal location.

1 (B) Amount of gasoline, diesel, jet fuel, blending components,  
2 and other petroleum products imported and exported.

3 (C) Amount of gasoline, diesel, jet fuel, blending components,  
4 and other petroleum products transported intrastate by marine  
5 vessel.

6 (D) Amount of crude oil imported, including information  
7 identifying the source of the crude oil.

8 (E) The regional average of invoiced retailer buying price. This  
9 subparagraph does not either preclude or augment the current  
10 authority of the department to collect additional data under  
11 subdivision (f).

12 (3) This subdivision is intended to clarify the department's  
13 existing authority under subdivision (f) to collect specific  
14 information. This subdivision does not either preclude or augment  
15 the existing authority of the department to collect information.

16 SEC. 103. Section 25356 of the Public Resources Code is  
17 amended to read:

18 25356. (a) The department, utilizing its own staff and other  
19 support staff having expertise and experience in, or with, the  
20 petroleum industry, shall gather, analyze, and interpret the  
21 information submitted to it pursuant to Section 25354 and other  
22 information relating to the supply and price of petroleum products,  
23 with particular emphasis on motor vehicle fuels, including, but not  
24 limited to, all of the following:

25 (1) The nature, cause, and extent of any petroleum or petroleum  
26 products shortage or condition affecting supply.

27 (2) The economic and environmental impacts of any petroleum  
28 and petroleum product shortage or condition affecting supply.

29 (3) Petroleum or petroleum product demand and supply  
30 forecasting methodologies utilized by the petroleum industry in  
31 California.

32 (4) The prices, with particular emphasis on retail motor fuel  
33 prices, including sales to unbranded retail markets, and any  
34 significant changes in prices charged by the petroleum industry  
35 for petroleum or petroleum products sold in California and the  
36 reasons for those changes.

37 (5) The profits, both before and after taxes, of the industry as a  
38 whole and of major firms within it, including a comparison with  
39 other major industry groups and major firms within them as to  
40 profits, return on equity and capital, and price-earnings ratio.

1 (6) The emerging trends relating to supply, demand, and  
2 conservation of petroleum and petroleum products.

3 (7) The nature and extent of efforts of the petroleum industry  
4 to expand refinery capacity and to make acquisitions of additional  
5 supplies of petroleum and petroleum products, including activities  
6 relative to the exploration, development, and extraction of resources  
7 within the state.

8 (8) The development of a petroleum and petroleum products  
9 information system in a manner that will enable the state to take  
10 action to meet and mitigate any petroleum or petroleum products  
11 shortage or condition affecting supply.

12 (b) The department shall analyze the impacts of state and federal  
13 policies and regulations upon the supply and pricing of petroleum  
14 products.

15 SEC. 104. Section 25357 of the Public Resources Code is  
16 amended to read:

17 25357. The department shall obtain and analyze monthly  
18 production reports prepared by the State Oil and Gas Supervisor  
19 pursuant to Section 3227.

20 SEC. 105. Section 25358 of the Public Resources Code is  
21 amended to read:

22 25358. (a) Within 70 days after the end of each preceding  
23 quarter of each calendar year, the department shall publish and  
24 submit to the Governor and the Legislature a summary, an analysis,  
25 and an interpretation of the information submitted to it pursuant  
26 to Section 25354 and information reviewed pursuant to Section  
27 25357. This report shall be separate from the report submitted  
28 pursuant to Section 25302. Any person may submit comments in  
29 writing regarding the accuracy or sufficiency of the information  
30 submitted.

31 (b) The department shall prepare a biennial assessment of the  
32 information provided pursuant to this chapter and shall include its  
33 assessment in the biennial fuels report prepared pursuant to Section  
34 25310.

35 (c) The department may use reasonable means necessary and  
36 available to it to seek and obtain any facts, figures, and other  
37 information from any source for the purpose of preparing and  
38 providing reports to the Governor and the Legislature. The  
39 department shall specifically include in the reports its analysis of  
40 any unsuccessful attempts in obtaining information from potential

1 sources, including the lack of cooperation or refusal to provide  
2 information.

3 (d) Whenever the department fails to provide any report required  
4 pursuant to this section within the specified time, it shall provide  
5 to all members of the Legislature, within five days of the specified  
6 time, a detailed written explanation of the cause of any delay.

7 SEC. 106. Section 25362 of the Public Resources Code is  
8 amended to read:

9 25362. (a) The department shall notify those persons who have  
10 failed to timely provide the information specified in Section 25354.  
11 If, within five days after being notified of the failure to provide  
12 the specified information, the person fails to supply the specified  
13 information, the person shall be subject to a civil penalty of not  
14 less than five hundred dollars (\$500) nor more than two thousand  
15 dollars (\$2,000) per day for each day the submission of information  
16 is refused or delayed, unless the person has timely filed objections  
17 with the department regarding the information and the department  
18 has not yet held a hearing on the matter, or the department has  
19 held a hearing and the person has properly submitted the issue to  
20 a court of competent jurisdiction for review.

21 (b) A person who willfully makes any false statement,  
22 representation, or certification in any record, report, plan, or other  
23 document filed with the department shall be subject to a civil  
24 penalty not to exceed two thousand dollars (\$2,000).

25 (c) For the purposes of this section, the term “person” shall  
26 mean, in addition to the definition contained in Section 25116, any  
27 responsible corporate officer.

28 SEC. 107. Section 25364 of the Public Resources Code is  
29 amended to read:

30 25364. (a) A person required to present information to the  
31 department pursuant to Section 25354 may request that specific  
32 information be held in confidence. Information requested to be  
33 held in confidence shall be presumed to be confidential.

34 (b) Information presented to the department pursuant to Section  
35 25354 shall be held in confidence by the department or aggregated  
36 to the extent necessary to assure confidentiality if public disclosure  
37 of the specific information or data would result in unfair  
38 competitive disadvantage to the person supplying the information.

39 (c) (1) Whenever the department receives a request to publicly  
40 disclose unaggregated information, or otherwise proposes to

1 publicly disclose information submitted pursuant to Section 25354,  
2 notice of the request or proposal shall be provided to the person  
3 submitting the information. The notice shall indicate the form in  
4 which the information is to be released. Upon receipt of notice,  
5 the person submitting the information shall have 10 working days  
6 in which to respond to the notice to justify the claim of  
7 confidentiality on each specific item of information covered by  
8 the notice on the basis that public disclosure of the specific  
9 information would result in unfair competitive disadvantage to the  
10 person supplying the information.

11 (2) The department shall consider the respondent's submittal  
12 in determining whether to publicly disclose the information  
13 submitted to it to which a claim of confidentiality is made. The  
14 department shall issue a written decision that sets forth its reasons  
15 for making the determination whether each item of information  
16 for which a claim of confidentiality is made shall remain  
17 confidential or shall be publicly disclosed.

18 (d) The department shall not make public disclosure of  
19 information submitted to it pursuant to Section 25354 within 10  
20 working days after the department has issued its written decision  
21 required in this section.

22 (e) Information submitted to the department pursuant to Section  
23 25354 shall not be deemed confidential if the person submitting  
24 the information or data has made it public.

25 (f) With respect to petroleum products and blendstocks reported  
26 by type pursuant to paragraph (1) or (2) of subdivision (a) of  
27 Section 25354 and information provided pursuant to subdivision  
28 (h) or (i) of Section 25354, neither the department nor any  
29 employee of the department may do any of the following:

30 (1) Use the information furnished under paragraph (1) or (2) of  
31 subdivision (a) of Section 25354 or under subdivision (h) or (i) of  
32 Section 25354 for any purpose other than the statistical purposes  
33 for which it is supplied.

34 (2) Make any publication whereby the information furnished  
35 by any particular establishment or individual under paragraph (1)  
36 or (2) of subdivision (a) of Section 25354 or under subdivision (h)  
37 or (i) of Section 25354 can be identified.

38 (3) Permit anyone other than department members and  
39 employees of the department to examine the individual reports

1 provided under paragraph (1) or (2) of subdivision (a) of Section  
2 25354 or under subdivision (h) or (i) of Section 25354.

3 (g) Notwithstanding any other provision of law, the department  
4 may disclose confidential information received pursuant to  
5 subdivision (a) of Section 25304 or Section 25354 to the State Air  
6 Resources Board if the state board agrees to keep the information  
7 confidential. With respect to the information it receives, the state  
8 board shall be subject to all pertinent provisions of this section.

9 SEC. 108. Section 25366 of the Public Resources Code is  
10 amended to read:

11 25366. Any confidential information pertinent to the  
12 responsibilities of the department specified in this division that is  
13 obtained by another state agency shall be available to the  
14 department and shall be treated in a confidential manner.

15 SEC. 109. Section 25400 of the Public Resources Code is  
16 amended to read:

17 25400. The department shall conduct an ongoing assessment  
18 of the opportunities and constraints presented by all forms of  
19 energy. The department shall encourage the balanced use of all  
20 sources of energy to meet the state's needs and shall seek to avoid  
21 possible undesirable consequences of reliance on a single source  
22 of energy.

23 SEC. 110. Section 25401 of the Public Resources Code is  
24 amended to read:

25 25401. (a) The department shall continuously carry out studies,  
26 research projects, data collection, and other activities required to  
27 assess the nature, extent, and distribution of energy resources to  
28 meet the needs of the state, including but not limited to, fossil fuels  
29 and solar, nuclear, and geothermal energy resources. It shall also  
30 carry out studies, technical assessments, research projects, and  
31 data collection directed to reducing wasteful, inefficient,  
32 unnecessary, or uneconomic uses of energy, including, but not  
33 limited to, all of the following:

- 34 (1) Pricing of electricity and other forms of energy.
- 35 (2) Improved building design and insulation.
- 36 (3) Restriction of promotional activities designed to increase  
37 the use of electrical energy by consumers.
- 38 (4) Improved appliance efficiency.
- 39 (5) Advances in power generation and transmission technology.

1 (6) Comparisons in the efficiencies of alternative methods of  
 2 energy utilization.

3 (b) The department shall survey pursuant to this section all  
 4 forms of energy on which to base its recommendations to the  
 5 Governor and Legislature for elimination of waste or increases in  
 6 efficiency for sources or uses of energy. The department shall  
 7 transmit to the Governor and the Legislature, as part of the biennial  
 8 report specified in Section 25302, recommendations for state policy  
 9 and actions for the orderly development of all potential sources of  
 10 energy to meet the state’s needs, including, but not limited to,  
 11 fossil fuels and solar, nuclear, and geothermal energy resources,  
 12 and to reduce wasteful and inefficient uses of energy.

13 SEC. 111. Section 25401.2 of the Public Resources Code is  
 14 amended to read:

15 25401.2. (a) As part of the report required by Section 25302,  
 16 the department shall develop and update an inventory of current  
 17 and potential cost-effective opportunities in each utility’s service  
 18 territory to improve efficiencies and to help utilities manage loads  
 19 in all sectors of natural gas and electricity use. The report shall  
 20 include estimates of the overall magnitude of these resources, load  
 21 shapes, and the projected costs associated with delivering the  
 22 various types of energy savings that are identified in the inventory.  
 23 The report shall also estimate the amount and incremental cost per  
 24 unit of potential energy efficiency and load management activities.  
 25 Where applicable, the inventory shall include data on variations  
 26 in savings and costs associated with particular measures. The report  
 27 shall take into consideration environmental benefits as developed  
 28 in related department and Public Utilities Commission proceedings.

29 (b) The department shall develop and maintain the inventory in  
 30 consultation with electric and gas utilities, the Public Utilities  
 31 Commission, academic institutions, and other interested parties.

32 (c) The department shall convene a technical advisory group to  
 33 develop an analytic framework for the inventory, to discuss the  
 34 level of detail at which the inventory would operate, and to ensure  
 35 that the inventory is consistent with other demand-side databases.  
 36 Privately owned electric and gas utilities shall provide financial  
 37 support, gather data, and provide analysis for activities that the  
 38 technical advisory group recommends. The technical advisory  
 39 group shall terminate on January 1, 1993.

1 SEC. 112. Section 25401.5 of the Public Resources Code is  
2 amended to read:

3 25401.5. For the purpose of reducing electrical and natural gas  
4 energy consumption, the department may develop and disseminate  
5 measures that would enhance energy efficiency for single-family  
6 residential dwellings that were built prior to the development of  
7 the current energy efficiency standards. The measures, if developed  
8 and disseminated, shall provide a homeowner with information to  
9 improve the energy efficiency of a single-family residential  
10 dwelling. The department may comply with this section by posting  
11 the measures on the department's Internet Web site or by making  
12 the measures available to the public, upon request.

13 SEC. 113. Section 25401.6 of the Public Resources Code is  
14 amended to read:

15 25401.6. (a) In its administration of Section 25744, the  
16 department shall establish a separate rebate for eligible distributed  
17 emerging technologies for affordable housing projects including,  
18 but not limited to, projects undertaken pursuant to Section 50052.5,  
19 50053, or 50199.4 of the Health and Safety Code. In establishing  
20 the rebate, where the department determines that the occupants of  
21 the housing shall have individual meters, the department may  
22 adjust the amount of the rebate based on the capacity of the system,  
23 provided that a system may receive a rebate only up to 75 percent  
24 of the total installed costs. The department may establish a  
25 reasonable limit on the total amount of funds dedicated for purposes  
26 of this section.

27 (b) It is the intent of the Legislature that this section fulfills the  
28 purpose of paragraph (5) of subdivision (b) of Section 25744.

29 SEC. 114. Section 25401.7 of the Public Resources Code is  
30 amended to read:

31 25401.7. At the time a single-family residential dwelling is  
32 sold, a buyer or seller may request a home inspection, as defined  
33 in subdivision (a) of Section 7195 of the Business and Professions  
34 Code, and a home inspector, as defined in subdivision (d) of  
35 Section 7195 of the Business and Professions Code, shall provide,  
36 contact information for one or more of the following entities that  
37 provide home energy information:

38 (a) A nonprofit organization.

39 (b) A provider to the residential dwelling of electrical service,  
40 or gas service, or both.

1 (c) A government agency, including, but not limited to, the  
2 department.

3 SEC. 115. Section 25402 of the Public Resources Code is  
4 amended to read:

5 25402. The commission, with staff support from the  
6 department, shall, after one or more public hearings, do all of the  
7 following, in order to reduce the wasteful, uneconomic, inefficient,  
8 or unnecessary consumption of energy, including the energy  
9 associated with the use of water:

10 (a) (1) Prescribe, by regulation, lighting, insulation climate  
11 control system, and other building design and construction  
12 standards that increase the efficiency in the use of energy and water  
13 for new residential and new nonresidential buildings. The  
14 commission shall periodically update the standards and adopt any  
15 revision that, in its judgment, it deems necessary. Six months after  
16 the commission certifies an energy conservation manual pursuant  
17 to subdivision (c) of Section 25402.1, a city, county, city and  
18 county, or state agency shall not issue a permit for a building unless  
19 the building satisfies the standards prescribed by the commission  
20 pursuant to this subdivision or subdivision (b) that are in effect on  
21 the date an application for a building permit is filed. Water  
22 efficiency standards adopted pursuant to this subdivision shall be  
23 demonstrated by the commission to be necessary to save energy.

24 (2) Prior to adopting a water efficiency standard for residential  
25 buildings, the Department of Housing and Community  
26 Development and the commission shall issue a joint finding  
27 whether the standard (A) is equivalent or superior in performance,  
28 safety, and for the protection of life, health, and general welfare  
29 to standards in Title 24 of the California Code of Regulations and  
30 (B) does not unreasonably or unnecessarily impact the ability of  
31 Californians to purchase or rent affordable housing, as determined  
32 by taking account of the overall benefit derived from water  
33 efficiency standards. Nothing in this subdivision in any way  
34 reduces the authority of the Department of Housing and  
35 Community Development to adopt standards and regulations  
36 pursuant to Part 1.5 (commencing with Section 17910) of Division  
37 13 of the Health and Safety Code.

38 (3) Water efficiency standards and water conservation design  
39 standards adopted pursuant to this subdivision and subdivision (b)  
40 shall be consistent with the legislative findings of this division to

1 ensure and maintain a reliable supply of electrical energy and be  
2 equivalent to or superior to the performance, safety, and protection  
3 of life, health, and general welfare standards contained in Title 24  
4 of the California Code of Regulations. The commission shall  
5 consult with the members of the coordinating council as established  
6 in Section 18926 of the Health and Safety Code in the development  
7 of these standards.

8 (b) (1) Prescribe, by regulation, energy and water conservation  
9 design standards for new residential and new nonresidential  
10 buildings. The standards shall be performance standards and shall  
11 be promulgated in terms of energy consumption per gross square  
12 foot of floorspace, but may also include devices, systems, and  
13 techniques required to conserve energy and water. The commission  
14 shall periodically review the standards and adopt any revision that,  
15 in its judgment, it deems necessary. A building that satisfies the  
16 standards prescribed pursuant to this subdivision need not comply  
17 with the standards prescribed pursuant to subdivision (a). Water  
18 conservation design standards adopted pursuant to this subdivision  
19 shall be demonstrated by the commission to be necessary to save  
20 energy. Prior to adopting a water conservation design standard for  
21 residential buildings, the Department of Housing and Community  
22 Development and the commission shall issue a joint finding  
23 whether the standard (A) is equivalent or superior in performance,  
24 safety, and for the protection of life, health, and general welfare  
25 to standards in the California Building Standards Code and (B)  
26 does not unreasonably or unnecessarily impact the ability of  
27 Californians to purchase or rent affordable housing, as determined  
28 by taking account of the overall benefit derived from the water  
29 conservation design standards. Nothing in this subdivision in any  
30 way reduces the authority of the Department of Housing and  
31 Community Development to adopt standards and regulations  
32 pursuant to Part 1.5 (commencing with Section 17910) of Division  
33 13 of the Health and Safety Code.

34 (2) In order to increase public participation and improve the  
35 efficacy of the standards adopted pursuant to this subdivision and  
36 subdivision (a), the commission shall, prior to publication of the  
37 notice of proposed action required by Section 18935 of the Health  
38 and Safety Code, involve parties who would be subject to the  
39 proposed regulations in public meetings regarding the proposed  
40 regulations. All potential affected parties shall be provided advance

1 notice of these meetings and given an opportunity to provide  
2 written or oral comments. During these public meetings, the  
3 commission shall receive and take into consideration input from  
4 all parties concerning the parties' design recommendations, cost  
5 considerations, and other factors that would affect consumers and  
6 California businesses of the proposed standard. The commission  
7 shall take into consideration prior to the start of the notice of  
8 proposed action any input provided during these public meetings.

9 (3) The standards adopted or revised pursuant to this subdivision  
10 and subdivision (a) shall be cost-effective when taken in their  
11 entirety and when amortized over the economic life of the structure  
12 compared with historic practice. When determining  
13 cost-effectiveness, the commission shall consider the value of the  
14 water or energy saved, impact on product efficacy for the  
15 consumer, and the life cycle cost of complying with the standard.  
16 The commission shall consider other relevant factors, as required  
17 by Sections 18930 and 18935 of the Health and Safety Code,  
18 including, but not limited to, the impact on housing costs, the total  
19 statewide costs and benefits of the standard over its lifetime,  
20 economic impact on California businesses, and alternative  
21 approaches and their associated costs.

22 (c) (1) Prescribe, by regulation, standards for minimum levels  
23 of operating efficiency, based on a reasonable use pattern, and  
24 may prescribe other cost-effective measures, including incentive  
25 programs, fleet averaging, energy and water consumption labeling  
26 not preempted by federal labeling law, and consumer education  
27 programs, to promote the use of energy and water efficient  
28 appliances whose use, as determined by the commission, requires  
29 a significant amount of energy or water on a statewide basis. The  
30 minimum levels of operating efficiency shall be based on feasible  
31 and attainable efficiencies or feasible improved efficiencies that  
32 will reduce the energy or water consumption growth rates. The  
33 standards shall become effective no sooner than one year after the  
34 date of adoption or revision. No new appliance manufactured on  
35 or after the effective date of the standards may be sold or offered  
36 for sale in the state, unless it is certified by the manufacturer thereof  
37 to be in compliance with the standards. The standards shall be  
38 drawn so that they do not result in any added total costs for  
39 consumers over the designed life of the appliances concerned.

1 In order to increase public participation and improve the efficacy  
2 of the standards adopted pursuant to this subdivision, the  
3 commission shall, prior to publication of the notice of proposed  
4 action required by Section 18935 of the Health and Safety Code,  
5 involve parties who would be subject to the proposed regulations  
6 in public meetings regarding the proposed regulations. All potential  
7 affected parties shall be provided advance notice of these meetings  
8 and given an opportunity to provide written or oral comments.  
9 During these public meetings, the commission shall receive and  
10 take into consideration input from all parties concerning the parties'  
11 design recommendations, cost considerations, and other factors  
12 that would affect consumers and California businesses of the  
13 proposed standard. The commission shall take into consideration  
14 prior to the start of the notice of proposed action any input provided  
15 during these public meetings.

16 The standards adopted or revised pursuant to this subdivision  
17 shall not result in any added total costs for consumers over the  
18 designed life of the appliances concerned. When determining  
19 cost-effectiveness, the commission shall consider the value of the  
20 water or energy saved, impact on product efficacy for the  
21 consumer, and the life cycle cost to the consumer of complying  
22 with the standard. The commission shall consider other relevant  
23 factors, as required by Sections 11346.5 and 11357 of the  
24 Government Code, including, but not limited to, the impact on  
25 housing costs, the total statewide costs and benefits of the standard  
26 over its lifetime, economic impact on California businesses, and  
27 alternative approaches and their associated costs.

28 (2) A new appliance, except for any plumbing fitting, regulated  
29 under paragraph (1), that is manufactured on or after July 1, 1984,  
30 shall not be sold, or offered for sale, in the state, unless the date  
31 of the manufacture is permanently displayed in an accessible place  
32 on that appliance.

33 (3) During the period of five years after the commission has  
34 adopted a standard for a particular appliance under paragraph (1),  
35 no increase or decrease in the minimum level of operating  
36 efficiency required by the standard for that appliance shall become  
37 effective, unless the commission adopts other cost-effective  
38 measures for that appliance.

39 (4) Neither the commission nor any other state agency shall  
40 take any action to decrease any standard adopted under this

1 subdivision on or before June 30, 1985, prescribing minimum  
2 levels of operating efficiency or other energy conservation  
3 measures for any appliance, unless the commission finds by a  
4 four-fifths vote that a decrease is of benefit to ratepayers, and that  
5 there is significant evidence of changed circumstances. Before  
6 January 1, 1986, the commission shall not take any action to  
7 increase a standard prescribing minimum levels of operating  
8 efficiency for any appliance or adopt a new standard under  
9 paragraph (1). Before January 1, 1986, any appliance manufacturer  
10 doing business in this state shall provide directly, or through an  
11 appropriate trade or industry association, information, as specified  
12 by the commission after consultation with manufacturers doing  
13 business in the state and appropriate trade or industry associations  
14 on sales of appliances so that the commission may study the effects  
15 of regulations on those sales. These informational requirements  
16 shall remain in effect until the information is received. The trade  
17 or industry association may submit sales information in an  
18 aggregated form in a manner that allows the commission to carry  
19 out the purposes of the study. The commission shall treat any sales  
20 information of an individual manufacturer as confidential and that  
21 information shall not be a public record. The commission shall not  
22 request any information that cannot be reasonably produced in the  
23 exercise of due diligence by the manufacturer. At least one year  
24 prior to the adoption or amendment of a standard for an appliance,  
25 the commission shall notify the Legislature of its intent, and the  
26 justification to adopt or amend a standard for the appliance.  
27 Notwithstanding paragraph (3) and this paragraph, the commission  
28 may do any of the following:

29 (A) Increase the minimum level of operating efficiency in an  
30 existing standard up to the level of the National Voluntary  
31 Consensus Standards 90, adopted by the American Society of  
32 Heating, Refrigeration, and Air Conditioning Engineers or, for  
33 appliances not covered by that standard, up to the level established  
34 in a similar nationwide consensus standard.

35 (B) Change the measure or rating of efficiency of any standard,  
36 if the minimum level of operating efficiency remains substantially  
37 the same.

38 (C) Adjust the minimum level of operating efficiency in an  
39 existing standard in order to reflect changes in test procedures that  
40 the standards require manufacturers to use in certifying compliance,

1 if the minimum level of operating efficiency remains substantially  
2 the same.

3 (D) Readopt a standard preempted, enjoined, or otherwise found  
4 legally defective by an administrative agency or a lower court, if  
5 final legal action determines that the standard is valid and if the  
6 standard that is readopted is not more stringent than the standard  
7 that was found to be defective or preempted.

8 (E) Adopt or amend any existing or new standard at any level  
9 of operating efficiency, if the Governor has declared an energy  
10 emergency as described in Section 8558 of the Government Code.

11 (5) Notwithstanding paragraph (4), the commission may adopt  
12 standards pursuant to Commission Order No. 84-0111-1, on or  
13 before June 30, 1985.

14 (d) Recommend minimum standards of efficiency for the  
15 operation of any new facility at a particular site that are technically  
16 and economically feasible. No site and related facility shall be  
17 certified pursuant to Chapter 6 (commencing with Section 25500),  
18 unless the applicant certifies that standards recommended by the  
19 commission have been considered, which certification shall include  
20 a statement specifying the extent to which conformance with the  
21 recommended standards will be achieved.

22 Whenever this section and Chapter 11.5 (commencing with  
23 Section 19878) of Part 3 of Division 13 of the Health and Safety  
24 Code are in conflict, the commission shall be governed by that  
25 chapter of the Health and Safety Code to the extent of the conflict.

26 (e) The commission shall do all of the following:

27 (1) Not later than January 1, 2004, amend any regulations in  
28 effect on January 1, 2003, pertaining to the energy efficiency  
29 standards for residential clothes washers to require that residential  
30 clothes washers manufactured on or after January 1, 2007, be at  
31 least as water efficient as commercial clothes washers.

32 (2) Not later than April 1, 2004, petition the federal Department  
33 of Energy for an exemption from any relevant federal regulations  
34 governing energy efficiency standards that are applicable to  
35 residential clothes washers.

36 (3) Not later than January 1, 2005, report to the Legislature on  
37 its progress with respect to the requirements of paragraphs (1) and  
38 (2).

39 SEC. 116. Section 25402.1 of the Public Resources Code is  
40 amended to read:

1 25402.1. In order to implement the requirements of subdivisions  
2 (a) and (b) of Section 25402, the department shall do all of the  
3 following:

4 (a) Develop a public domain computer program that will enable  
5 contractors, builders, architects, engineers, and government  
6 officials to estimate the energy consumed by residential and  
7 nonresidential buildings. The department may charge a fee for the  
8 use of the program, which fee shall be based upon the actual cost  
9 of the program, including any computer costs.

10 (b) Establish a formal process for certification of compliance  
11 options for new products, materials, and calculation methods that  
12 provides for adequate technical and public review to ensure  
13 accurate, equitable, and timely evaluation of certification  
14 applications. Proponents filing applications for new products,  
15 materials, and calculation methods shall provide all information  
16 needed to evaluate the application that is required by the  
17 commission. The department shall publish annually the results of  
18 its certification decisions and instructions to users and local  
19 building officials concerning requirements for showing compliance  
20 with the building standards for new products, materials, or  
21 calculation methods. The department may charge and collect a  
22 reasonable fee from applicants to cover the costs under this  
23 subdivision. Any funds received by the department for purposes  
24 of this subdivision shall be deposited in the Energy Resources  
25 Programs Account and, notwithstanding Section 13340 of the  
26 Government Code, are continuously appropriated to the department  
27 for the purposes of this subdivision. Any unencumbered portion  
28 of funds collected as a fee for an application remaining in the  
29 Energy Resources Programs Account after completion of the  
30 certification process for that application shall be returned to the  
31 applicant within a reasonable period of time.

32 (c) Include a prescriptive method of complying with the  
33 standards, including design aids such as a manual, sample  
34 calculations, and model structural designs.

35 (d) Conduct a pilot project of field testing of actual residential  
36 buildings to calibrate and identify potential needed changes in the  
37 modeling assumptions to increase the accuracy of the public  
38 domain computer program specified in subdivision (a) and to  
39 evaluate the impacts of the standards, including, but not limited  
40 to, the energy savings, cost effectiveness, and the effects on indoor

1 air quality. The pilot project shall be conducted pursuant to a  
2 contract entered into by the department. The department shall  
3 consult with the participants designated pursuant to Section 9202  
4 of the Public Utilities Code to seek funding and support for field  
5 monitoring in each public utility service territory, with the  
6 University of California to take advantage of its extensive building  
7 monitoring expertise, and with the California Building Industry  
8 Association to coordinate the involvement of builders and  
9 developers throughout the state. The pilot project shall include  
10 periodic public workshops to develop plans and review progress.  
11 The department shall prepare and submit a report to the Legislature  
12 on progress and initial findings not later than December 31, 1988,  
13 and a final report on the results of the pilot project on residential  
14 buildings not later than June 30, 1990. The report shall include  
15 recommendations regarding the need and feasibility of conducting  
16 further monitoring of actual residential and nonresidential  
17 buildings. The report shall also identify any revisions to the public  
18 domain computer program and energy conservation standards if  
19 the pilot project determines that revisions are appropriate.

20 (e) Certify, not later than 180 days after approval of the  
21 standards by the California Building Standards Commission, an  
22 energy conservation manual for use by designers, builders, and  
23 contractors of residential and nonresidential buildings. The manual  
24 shall be furnished upon request at a price sufficient to cover the  
25 costs of production and shall be distributed at no cost to all affected  
26 local agencies. The manual shall contain, but not be limited to, the  
27 following:

28 (1) The standards for energy conservation established by the  
29 department.

30 (2) Forms, charts, tables, and other data to assist designers and  
31 builders in meeting the standards.

32 (3) Design suggestions for meeting or exceeding the standards.

33 (4) Any other information that the department finds will assist  
34 persons in conforming to the standards.

35 (5) Instructions for use of the computer program for calculating  
36 energy consumption in residential and nonresidential buildings.

37 (6) The prescriptive method for use as an alternative to the  
38 computer program.

39 (f) The department shall establish a continuing program of  
40 technical assistance to local building departments in the

1 enforcement of subdivisions (a) and (b) of Section 25402 and this  
2 section. The program shall include the training of local officials  
3 in building technology and enforcement procedures related to  
4 energy conservation, and the development of complementary  
5 training programs conducted by local governments, educational  
6 institutions, and other public or private entities. The technical  
7 assistance program shall include the preparation and publication  
8 of forms and procedures for local building departments in  
9 performing the review of building plans and specifications. The  
10 department shall provide, on a contract basis, a review of building  
11 plans and specifications submitted by a local building department,  
12 and shall adopt a schedule of fees sufficient to repay the cost of  
13 those services.

14 (g) Subdivisions (a) and (b) of Section 25402 and this section,  
15 and the rules and regulations of the commission adopted pursuant  
16 thereto, shall be enforced by the building department of every city,  
17 county, or city and county.

18 (1) No building permit for any residential or nonresidential  
19 building shall be issued by a local building department, unless a  
20 review by the building department of the plans for the proposed  
21 residential or nonresidential building contains detailed energy  
22 system specifications and confirms that the building satisfies the  
23 minimum standards established pursuant to subdivision (a) or (b)  
24 of Section 25402 and this section applicable to the building.

25 (2) Where there is no local building department, the department  
26 shall enforce subdivisions (a) and (b) of Section 25402 and this  
27 section.

28 (3) If a local building department fails to enforce subdivisions  
29 (a) and (b) of Section 25402 and this section or any other provision  
30 of this chapter or standard adopted pursuant thereto, the department  
31 may provide enforcement after furnishing 10 days' written notice  
32 to the local building department.

33 (4) A city, county, or city and county may, by ordinance or  
34 resolution, prescribe a schedule of fees sufficient to pay the costs  
35 incurred in the enforcement of subdivisions (a) and (b) of Section  
36 25402 and this section. The department may establish a schedule  
37 of fees sufficient to pay the costs incurred by that enforcement.

38 (5) Construction of a state building shall not commence until  
39 the Department of General Services or the state agency that  
40 otherwise has jurisdiction over the property reviews the plans for

1 the proposed building and certifies that the plans satisfy the  
2 minimum standards established pursuant to Chapter 2.8  
3 (commencing with Section 15814.30) of Part 10b of Division 3 of  
4 Title 2 of the Government Code, Section 25402, and this section  
5 which are applicable to the building.

6 (h) Subdivisions (a) and (b) of Section 25402 and this section  
7 shall apply only to new residential and nonresidential buildings  
8 on which actual site preparation and construction have not  
9 commenced prior to the effective date of rules and regulations  
10 adopted pursuant to those sections that are applicable to those  
11 buildings. Nothing in those sections shall prohibit either of the  
12 following:

13 (1) The enforcement of state or local energy conservation or  
14 energy insulation standards, adopted prior to the effective date of  
15 rules and regulations adopted pursuant to subdivisions (a) and (b)  
16 of Section 25402 and this section with regard to residential and  
17 nonresidential buildings on which actual site preparation and  
18 construction have commenced prior to that date.

19 (2) The enforcement of city or county energy conservation or  
20 energy insulation standards, whenever adopted, with regard to  
21 residential and nonresidential buildings on which actual site  
22 preparation and construction have not commenced prior to the  
23 effective date of rules and regulations adopted pursuant to  
24 subdivisions (a) and (b) of Section 25402 and this section, if the  
25 city or county files the basis of its determination that the standards  
26 are cost effective with the department and the commission finds  
27 that the standards will require the diminution of energy  
28 consumption levels permitted by the rules and regulations adopted  
29 pursuant to those sections. If, after two or more years after the  
30 filing with the department of the determination that those standards  
31 are cost effective, there has been a substantial change in the factual  
32 circumstances affecting the determination, upon application by  
33 any interested party, the city or county shall update and file a new  
34 basis of its determination that the standards are cost effective. The  
35 determination that the standards are cost effective shall be adopted  
36 by the governing body of the city or county at a public meeting.  
37 If, at the meeting on the matter, the governing body determines  
38 that the standards are no longer cost effective, the standards shall,  
39 as of that date, be unenforceable and no building permit or other

1 entitlement shall be denied based on the noncompliance with the  
2 standards.

3 (i) The department may exempt from the requirements of this  
4 section and of any regulations adopted pursuant thereto any  
5 proposed building for which compliance would be impossible  
6 without substantial delays and increases in cost of construction, if  
7 the department finds that substantial funds have been expended in  
8 good faith on planning, designing, architecture or engineering prior  
9 to the date of adoption of the regulations.

10 (j) If a dispute arises between an applicant for a building permit,  
11 or the state pursuant to paragraph (5) of subdivision (g), and the  
12 building department regarding interpretation of Section 25402 or  
13 the regulations adopted pursuant thereto, either party may submit  
14 the dispute to the commission for resolution. The commission’s  
15 determination of the matter shall be binding on the parties.

16 (k) Nothing in Section 25130, 25131, or 25402, or in this section  
17 prevents enforcement of any regulation adopted pursuant to this  
18 chapter, or Chapter 11.5 (commencing with Section 19878) of Part  
19 3 of Division 13 of the Health and Safety Code as they existed  
20 prior to September 16, 1977.

21 SEC. 117. Section 25402.3 of the Public Resources Code is  
22 amended to read:

23 25402.3. For purposes of subdivision (e) of Section 25402.1,  
24 the department shall contract with California building officials to  
25 establish two regional training centers to provide continuing  
26 education for local building officials and enforcement personnel  
27 as follows:

28 (a) One site shall be located in northern California and one site  
29 shall be located in southern California to serve the needs of the  
30 respective regions.

31 (b) The centers shall provide training on a monthly basis to  
32 ensure a uniform understanding and implementation of the energy  
33 efficient building standards. Existing resources shall be used as  
34 much as possible by utilizing members of the building official  
35 community in training activities.

36 (c) The centers shall provide similar training sessions, in the  
37 form of workshops given in designated rural areas, to ensure that  
38 adequate training is available throughout the state. The workshops  
39 shall meet the following requirements:

1 (1) A minimum of two workshops in northern California and  
2 two workshops in southern California shall be offered each year.

3 (2) The sites shall be selected to ensure the greatest number of  
4 participants will be served in areas of greatest need to decrease  
5 the financial burden on small rural or isolated local government  
6 agencies that would not be able to travel to the regional training  
7 centers for instruction.

8 SEC. 118. Section 25402.6 of the Public Resources Code is  
9 amended to read:

10 25402.6. The department shall investigate options and develop  
11 a plan to decrease wasteful peakload energy consumption in  
12 existing residential and nonresidential buildings. On or before  
13 January 1, 2004, the department shall report its findings to the  
14 Legislature, including, but not limited to, any changes in law  
15 necessary to implement the plan to decrease wasteful peakload  
16 energy consumption in existing residential and nonresidential  
17 buildings.

18 SEC. 119. Section 25402.9 of the Public Resources Code is  
19 amended to read:

20 25402.9. (a) On or before July 1, 1996, the department shall  
21 develop, adopt, and publish an informational booklet to educate  
22 and inform homeowners, rental property owners, renters, sellers,  
23 brokers, and the general public about the statewide home energy  
24 rating program adopted pursuant to Section 25942.

25 (b) In the development of the booklet, the department shall  
26 consult with representatives of the Department of Real Estate, the  
27 Department of Housing and Community Development, the Public  
28 Utilities Commission, investor-owned and municipal utilities,  
29 cities and counties, real estate licensees, home builders, mortgage  
30 lenders, home appraisers and inspectors, home energy rating  
31 organizations, contractors who provide home energy services,  
32 consumer groups, and environmental groups.

33 (c) The department shall charge a fee for the informational  
34 booklet to recover its costs under subdivision (a).

35 SEC. 120. Section 25403 of the Public Resources Code is  
36 amended to read:

37 25403. The department shall submit to the Public Utilities  
38 Commission and to any publicly owned electric utility,  
39 recommendations designed to reduce wasteful, unnecessary, or  
40 uneconomic energy consumption resulting from practices

1 including, but not limited to, differential rate structures,  
2 cost-of-service allocations, the disallowance of a business expense  
3 of advertising or promotional activities that encourage the use of  
4 electrical power, peakload pricing, and other pricing measures.  
5 The Public Utilities Commission or publicly owned electric utility  
6 shall review and consider the recommendations and shall, within  
7 six months after the date it receives them, as prescribed by this  
8 section, report to the Governor and the Legislature its actions and  
9 reasons therefor with respect to the recommendations.

10 SEC. 121. Section 25403.5 of the Public Resources Code is  
11 amended to read:

12 25403.5. (a) The department shall, by July 1, 1978, adopt  
13 standards by regulation for a program of electrical load  
14 management for each utility service area. In adopting the standards,  
15 the department shall consider, but need not be limited to, the  
16 following load management techniques:

17 (1) Adjustments in rate structure to encourage use of electrical  
18 energy at off-peak hours or to encourage control of daily electrical  
19 load. Compliance with those adjustments in rate structure shall be  
20 subject to the approval of the Public Utilities Commission in a  
21 proceeding to change rates or service.

22 (2) End use storage systems which store energy during off-peak  
23 periods for use during peak periods.

24 (3) Mechanical and automatic devices and systems for the  
25 control of daily and seasonal peakloads.

26 (b) (1) The standards shall be cost-effective when compared  
27 with the costs for new electrical capacity, and the department shall  
28 find them to be technologically feasible. Any expense or any capital  
29 investment required of a utility by the standards shall be an  
30 allowable expense or an allowable item in the utility rate base and  
31 shall be treated by the Public Utilities Commission as allowable  
32 in a rate proceeding.

33 (2) The department may determine that one or more of the load  
34 management techniques are infeasible and may delay their  
35 adoption. If the department determines that any techniques are  
36 infeasible to implement, it shall make a finding in each instance  
37 stating the grounds upon which the determination was made and  
38 the actions it intends to take to remove the impediments to  
39 implementation.

1 (c) The department may also grant, upon application by a utility,  
2 an exemption from the standards or a delay in implementation.  
3 The grant of an exemption or delay shall be accompanied by a  
4 statement of findings by the department indicating the grounds for  
5 the exemption or delay. Exemption or delay shall be granted only  
6 upon a showing of extreme hardship, technological infeasibility,  
7 lack of cost-effectiveness, or reduced system reliability and  
8 efficiency.

9 SEC. 122. Section 25403.8 of the Public Resources Code is  
10 amended to read:

11 25403.8. (a) The department shall develop and implement a  
12 program to provide battery backup power for those official traffic  
13 control signals, operated by a city, county, or city and county, that  
14 the department, in consultation with cities, counties, or cities and  
15 counties, determines to be high priority traffic control signals.

16 (b) Based on traffic factors considered by cities, counties, or  
17 cities and counties, including, but not limited to, traffic volume,  
18 number of accidents, and presence of children, the department  
19 shall determine a priority schedule for the installation of battery  
20 backup power for traffic control systems. The department shall  
21 give priority to a city, county, or city and county that did not  
22 receive a grant from the State of California for the installation of  
23 light-emitting diode traffic control signals.

24 (c) The department shall also develop or adopt the necessary  
25 technical criteria as to wiring, circuitry, and recharging units for  
26 traffic control signals. Only light-emitting diodes (LED) traffic  
27 control signals are eligible for battery backup power for the full  
28 operation of the traffic control signal or a flashing red mode. A  
29 city, county, or city and county may apply for a matching grant  
30 for battery backup power for traffic control signals retrofitted with  
31 light-emitting diodes.

32 (d) Based on the criteria described in subdivision (c), the  
33 department shall provide matching grants to cities, counties, and  
34 cities and counties for backup battery systems described in this  
35 section in accordance with the priority schedule established by the  
36 department pursuant to subdivision (b). The department shall  
37 provide 70 percent of the funds for a battery backup system, and  
38 the city, county, or city and county shall provide 30 percent.

39 (e) If a city, county, or city and county has installed a backup  
40 battery system for LED traffic control signals between January 1,

1 2001, and October 1, 2001, the department may reimburse the city,  
2 county, or city and county for up to 30 percent of the cost incurred  
3 for the backup battery system installation. However, the department  
4 may not spend more than one million five hundred thousand dollars  
5 (\$1,500,000) for reimbursements pursuant to this subdivision.

6 SEC. 123. Section 25404 of the Public Resources Code is  
7 amended to read:

8 25404. The department shall cooperate with the Office of  
9 Planning and Research, the Resources Agency, and other interested  
10 parties in developing procedures to ensure that mitigation measures  
11 to minimize wasteful, inefficient, and unnecessary consumption  
12 of energy are included in all environmental impact reports required  
13 on local projects as specified in Section 21151.

14 SEC. 124. Section 25410.5 of the Public Resources Code is  
15 amended to read:

16 25410.5. The Legislature finds and declares all of the following:

17 (a) Energy costs are frequently the second largest discretionary  
18 expense in a local government's budget. According to the  
19 department, most public institutions could reduce their energy  
20 costs by 20 to 30 percent.

21 (b) A variety of energy conservation measures are available to  
22 local governments. These measures are highly cost-effective, often  
23 providing a payback on the initial investment in three years or less.

24 (c) Many local governments lack energy management expertise  
25 and are often unaware of their high energy costs or the  
26 opportunities to reduce those costs.

27 (d) Local governments that desire to reduce their energy costs  
28 through energy conservation and efficiency measures often lack  
29 available funding.

30 (e) Since 1980, the Energy Conservation Assistance Account  
31 has provided \$110 million in loans, through a revolving loan  
32 account, to 600 schools, hospitals, and local governments. The  
33 energy conservation projects funded by the account save  
34 approximately \$35 million annually in energy costs.

35 (f) Local governments and public institutions need assistance  
36 in all aspects of energy efficiency improvements, including, but  
37 not limited to, project identification, project development and  
38 implementation, evaluation of project proposals and options,  
39 operations and maintenance, and troubleshooting of problem  
40 projects.

1 SEC. 125. Section 25410.6 of the Public Resources Code is  
2 amended to read:

3 25410.6. (a) It is the intent of the Legislature that the  
4 department shall administer the State Energy Conservation  
5 Assistance Account to provide grants and loans to local  
6 governments and public institutions to maximize energy use  
7 savings, including, but not limited to, technical assistance,  
8 demonstrations, and identification and implementation of  
9 cost-effective energy efficiency measures and programs in existing  
10 and planned buildings or facilities.

11 (b) It is further the intent of the Legislature that the department  
12 seek the assistance of utility companies in providing energy audits  
13 for local governments and public institutions and in publicizing  
14 the availability of State Energy Conservation Assistance Account  
15 funds to qualified entities.

16 SEC. 126. Section 25412 of the Public Resources Code is  
17 amended to read:

18 25412. (a) Any eligible institution may submit an application  
19 to the department for an allocation for the purpose of financing all  
20 or a portion of the costs incurred in implementing a project. The  
21 application shall be in the form and contain the information  
22 incurred in implementing a project that the department shall  
23 prescribe.

24 (b) An application may be for the purpose of financing the  
25 eligible institution's share of costs that are to be jointly funded  
26 through a state, local, or federal-local program.

27 SEC. 127. Section 25413 of the Public Resources Code is  
28 amended to read:

29 25413. Applications may be approved by the department only  
30 in those instances where the eligible institution has furnished  
31 information satisfactory to the department that the costs of the  
32 project, plus interest on state funds loaned, calculated in accordance  
33 with Section 25415, will be recovered through savings in the cost  
34 of energy to the institution during the repayment period of the  
35 allocation.

36 The savings shall be calculated in a manner prescribed by the  
37 department.

38 SEC. 128. Section 25414 of the Public Resources Code is  
39 amended to read:

1 25414. Annually at the conclusion of each fiscal year, but not  
 2 later than October 31, each eligible institution that has received  
 3 an allocation pursuant to this chapter shall compute the cost of  
 4 energy saved as a result of implementing a project funded by the  
 5 allocation. The cost shall be calculated in a manner prescribed by  
 6 the department.

7 SEC. 129. Section 25415 of the Public Resources Code is  
 8 amended to read:

9 25415. (a) Each eligible institution to which an allocation has  
 10 been made under this chapter shall repay the principal amount of  
 11 the allocation, plus interest, in not more than 30 equal semiannual  
 12 payments, as determined by the department. The first semiannual  
 13 payment shall be made on or before December 22 of the fiscal  
 14 year following the year in which the project is completed. The  
 15 repayment period may not exceed the life of the equipment, as  
 16 determined by the commission or the lease term of the building in  
 17 which the energy conservation measures will be installed.

18 (b) Notwithstanding any other provision of law, the department  
 19 shall, unless it determines that the purposes of this chapter would  
 20 be better served by establishing an alternative interest rate schedule,  
 21 periodically set interest rates on the loans based on surveys of  
 22 existing financial markets and at rates not less than 1 percent per  
 23 annum.

24 (c) The governing body of each eligible institution shall annually  
 25 budget an amount at least sufficient to make the semiannual  
 26 payments required in this section. The amount shall not be raised  
 27 by the levy of additional taxes but shall instead be obtained by a  
 28 savings in energy costs or other sources.

29 SEC. 130. Section 25416 of the Public Resources Code is  
 30 amended to read:

31 25416. (a) The State Energy Conservation Assistance Account  
 32 is hereby created in the General Fund. Notwithstanding Section  
 33 13340 of the Government Code, the account is continuously  
 34 appropriated to the department without regard to fiscal year.

35 (b) The money in the account shall consist of all money  
 36 authorized or required to be deposited in the account by the  
 37 Legislature and all money received by the department pursuant to  
 38 Sections 25414 and 25415.

1 (c) The money in the account shall be disbursed by the  
2 Controller for the purposes of this chapter as authorized by the  
3 department.

4 (d) The department may contract and provide grants for services  
5 to be performed for eligible institutions. Services may include, but  
6 are not limited to, feasibility analysis, project design, field  
7 assistance, and operation and training. The amount expended for  
8 those services may not exceed 10 percent of the unencumbered  
9 balance of the account as determined by the department on July 1  
10 of each year.

11 (e) The department may make grants to eligible institutions for  
12 innovative projects and programs. Except as provided in  
13 subdivision (d), the amount expended for grants may not exceed  
14 5 percent of the annual unencumbered balance in the account as  
15 determined by the department on July 1 of each fiscal year.

16 (f) The department may charge a fee for the services provided  
17 under subdivision (d).

18 (g) Notwithstanding any other provision of law, the Controller  
19 may use the State Energy Conservation Assistance Account for  
20 loans to the General Fund as provided in Sections 16310 and 16381  
21 of the Government Code.

22 SEC. 131. Section 25417 of the Public Resources Code is  
23 amended to read:

24 25417. (a) An allocation made pursuant to this chapter shall  
25 be used for the purposes specified in an approved application.

26 (b) In the event that the department determines that an allocation  
27 has been expended for purposes other than those specified in an  
28 approved application, it shall immediately request the return of  
29 the full amount of the allocation. The eligible institution shall  
30 immediately comply with this request.

31 SEC. 132. Section 25417.5 of the Public Resources Code is  
32 amended to read:

33 25417.5. (a) In furtherance of the purposes of the department  
34 as set forth in this chapter, the department has the power and  
35 authority to do all of the following:

36 (1) Borrow money, for the purpose of obtaining funds to make  
37 loans pursuant to this chapter, from the California Economic  
38 Development Financing Authority and the California Infrastructure  
39 and Economic Development Bank from the proceeds of revenue  
40 bonds issued by any of those agencies.

1 (2) Pledge, to provide collateral in connection with the  
2 borrowing of money pursuant to paragraph (1), loans made  
3 pursuant to this chapter or Chapter 5.4 (commencing with Section  
4 25440), or the principal and interest payments on loans made  
5 pursuant to this chapter or Chapter 5.4 (commencing with Section  
6 25440).

7 (3) Sell loans made pursuant to this chapter or Chapter 5.4  
8 (commencing with Section 25440), at prices determined in the  
9 sole discretion of the department, to the California Economic  
10 Development Financing Authority and the California Infrastructure  
11 and Economic Development Bank to raise funds to enable the  
12 department to make loans to eligible institutions.

13 (4) Enter into loan agreements or other contracts necessary or  
14 appropriate in connection with the pledge or sale of loans pursuant  
15 to paragraph (2) or (3), or the borrowing of money as provided in  
16 paragraph (1), containing any provisions that may be required by  
17 the California Economic Development Financing Authority, the  
18 California Infrastructure and Economic Development Bank, or the  
19 department as conditions of issuing bonds to fund loans to, or the  
20 purchase of loans from, the department.

21 (b) In connection with the pledging of loans, or of the principal  
22 and interest payment on loans, pursuant to paragraph (2) of  
23 subdivision (a), the department may enter into pledge agreements  
24 setting forth the terms and conditions pursuant to which the  
25 department is pledging loans or the principal and interest payment  
26 on loans, and may also agree to have the loans held by bond  
27 trustees or by independent collateral or escrow agents and to direct  
28 that payments received on those loans be paid to those trustee,  
29 collateral, or escrow agents.

30 (c) The department may employ financial consultants, legal  
31 advisers, accountants, and other service providers, as may be  
32 necessary in its judgment, in connection with activities pursuant  
33 to this chapter.

34 (d) Notwithstanding any other provision of law, this chapter  
35 provides a complete, separate, additional, and alternative method  
36 for implementing the measures authorized by this chapter,  
37 including the authority of the eligible institutions or local  
38 jurisdictions to have borrowed and to borrow in the future pursuant  
39 to loans made pursuant to this chapter or Chapter 5.4 (commencing

1 with Section 25440), and is supplemental and additional to powers  
2 conferred by other laws.

3 SEC. 133. Section 25419 of the Public Resources Code is  
4 amended to read:

5 25419. In addition to the powers specifically granted to the  
6 department by the other provisions of this chapter, the department  
7 shall have the following powers:

8 (a) To establish qualifications and priorities, consistent with the  
9 objectives of this chapter, for making allocations.

10 (b) To establish procedures and policies as may be necessary  
11 for the administration of this chapter.

12 SEC. 134. Section 25420 of the Public Resources Code is  
13 amended to read:

14 25420. The department may expend from the State Energy  
15 Conservation Assistance Account an amount to pay for the actual  
16 administrative costs incurred by the commission pursuant to this  
17 chapter. The amount shall not exceed 5 percent of the annual  
18 unencumbered balance in the account as determined by the  
19 commission on July 1 of each fiscal year, to be used to defray costs  
20 incurred by the commission for allocations made by the  
21 commission pursuant to this chapter.

22 SEC. 135. Section 25422 of the Public Resources Code is  
23 amended to read:

24 25422. (a) Federal funds available to the department pursuant  
25 to Chapter 5.6 (commencing with Section 25460) may be used by  
26 the department to augment funding for grants and loans pursuant  
27 to this chapter. Any federal funds used for loans shall, when repaid,  
28 be deposited into the Energy Conservation Assistance Account  
29 and used to make additional loans pursuant to this chapter.

30 (b) A separate subaccount shall be established within the Energy  
31 Conservation Assistance Account to track the award and repayment  
32 of loans from federal funds, including any interest earnings, in  
33 accordance with the federal American Recovery and Reinvestment  
34 Act of 2009 (Public Law 111-5).

35 SEC. 136. Section 25426 of the Public Resources Code is  
36 amended to read:

37 25426. As used in this article, the following terms have the  
38 following meanings:

39 (a) “Commercial refrigeration” means a refrigerator that is not  
40 a federally regulated consumer product.

1 (b) “Energy-efficient model” means an appliance that meets the  
 2 efficiency standards of the United States Department of Energy  
 3 that are effective on and after July 1, 2001, and, if applicable,  
 4 products certified as energy efficient zone heating products by the  
 5 commission.

6 (c) “Small business” means a small business as defined in  
 7 paragraph (1) of subdivision (d) of Section 14837 of the  
 8 Government Code.

9 SEC. 137. Section 25433.5 of the Public Resources Code is  
 10 amended to read:

11 25433.5. (a) The department, in consultation with the Public  
 12 Utilities Commission, shall do both of the following for the purpose  
 13 of full or partial funding of an eligible construction or retrofit  
 14 project:

15 (1) Establish a grant program to provide financial assistance to  
 16 eligible low-income individuals.

17 (2) Establish a 2-percent interest per annum loan program to  
 18 provide financial assistance to a small business owner, residential  
 19 property owner, or individual who is not eligible for a grant  
 20 pursuant to paragraph (1). The loans shall be available to a small  
 21 business owner who has a gross annual income that does not exceed  
 22 one hundred thousand dollars (\$100,000) or to an individual or  
 23 residential property owner who has a gross annual household  
 24 income that does not exceed one hundred thousand dollars  
 25 (\$100,000).

26 (b) (1) The department shall use the design guidelines adopted  
 27 pursuant to paragraph (2) of subdivision (f) of Section 14 of  
 28 Chapter 8 of the Statutes of the First Extraordinary Session of 2001  
 29 as standards to determine eligible energy-efficiency projects.

30 (2) The award of a grant pursuant to this section is subject to  
 31 appeal to the department upon a showing that the department  
 32 applied factors, other than those adopted by the department, in  
 33 making the award.

34 (3) The grant or loan recipient shall commit to using the grant  
 35 or loan for the purpose for which the grant or loan was awarded.

36 (4) Any action taken by an applicant to apply for, or to become  
 37 or remain eligible to receive, a grant award, including satisfying  
 38 conditions specified by the department, does not constitute the  
 39 rendering of goods, services, or a direct benefit to the department.

1 (5) The amount of any grant awarded pursuant to this article to  
2 a low-income individual does not constitute income for purposes  
3 of calculating the recipient’s gross income for the tax year during  
4 which the grant is received.

5 SEC. 138. Section 25434 of the Public Resources Code is  
6 amended to read:

7 25434. (a) The department may contract with one or more  
8 business entities capable of supplying or providing goods or  
9 services necessary for the department to carry out the  
10 responsibilities for the programs conducted pursuant to this article.

11 (b) The Department of Finance shall conduct an independent  
12 audit of the programs conducted pursuant to this article, and  
13 provide an audit report to the Legislature not later than March 1  
14 of each year for which an appropriation has been made to fund the  
15 programs. The Department of Finance audit report shall include  
16 an evaluation of the effectiveness of the programs implemented  
17 pursuant to subdivision (a) of Section 25433.5, and information  
18 regarding revenues, payment of awards, reserves held for future  
19 commitments, unencumbered cash balances, and other matters that  
20 the Director of Finance determines may be of importance to the  
21 Legislature.

22 SEC. 139. Section 25434.5 of the Public Resources Code is  
23 amended to read:

24 25434.5. As used in this article, the following terms have the  
25 following meanings:

26 (a) “Eligible construction or retrofit project” means a project  
27 for making improvements to a home or building in existence on  
28 April 12, 2001, through an addition, alteration, or repair, which  
29 effectively increases the energy efficiency or reduces the energy  
30 consumption of the home or building as specified by the  
31 departmental guidelines under paragraph (2) of subdivision (f) of  
32 Section 14 of Chapter 8 of the Statutes of the First Extraordinary  
33 Session of 2001. The improvements shall be deemed to be  
34 cost-effective.

35 (b) “Low income” means an individual with a gross annual  
36 income equal to or less than 200 percent of the federal poverty  
37 level.

38 (c) “Small business” means a small business as defined in  
39 paragraph (1) of subdivision (d) of Section 14837 of the  
40 Government Code.

1 SEC. 140. Article 3 (commencing with Section 25435) of  
2 Chapter 5.3 of Division 15 of the Public Resources Code is  
3 repealed.

4 SEC. 141. Section 25441 of the Public Resources Code is  
5 amended to read:

6 25441. The department shall provide financial assistance to  
7 local jurisdictions for the purpose of providing staff training and  
8 support services, including, but not limited to, planning design,  
9 permitting, energy conservation, comprehensive energy  
10 management, project evaluation, and development of alternative  
11 energy resources.

12 SEC. 142. Section 25442 of the Public Resources Code is  
13 amended to read:

14 25442. The department shall provide loans to local jurisdictions  
15 for all of the following purposes:

16 (a) Purchase, maintenance, and evaluation of energy efficient  
17 or peak load reduction equipment for existing or planned facilities,  
18 including, but not limited to, equipment related to lights, motors,  
19 pumps, water and wastewater systems, boilers, heating, and air  
20 conditioning.

21 (b) Purchase, maintenance, and evaluation of small power  
22 production systems, including, but not limited to, wind,  
23 cogeneration, photovoltaics, geothermal, and hydroelectric systems.

24 (c) Improvement of the operating efficiency of existing local  
25 transportation systems.

26 SEC. 143. Section 25442.5 of the Public Resources Code is  
27 amended to read:

28 25442.5. The department may award financial assistance for  
29 project audits, feasibility studies, engineering and design, and legal  
30 and financial analysis related to the purposes of Section 25442.

31 SEC. 144. Section 25442.7 of the Public Resources Code is  
32 amended to read:

33 25442.7. (a) Loans under this article may not exceed five  
34 million dollars (\$5,000,000) for any one local jurisdiction unless  
35 the department determines that the public interest and objectives  
36 of this chapter would be better served at a higher loan amount.

37 (b) Loan repayments shall be made in accordance with a  
38 schedule established by the department. Repayment of loans shall  
39 be made in full unless the department determines that the public  
40 interest and objectives of this chapter would be better served by

1 negotiating a reduced loan repayment for a project that fails to  
2 meet the technical or financial performance criteria through no  
3 fault of the local jurisdiction.

4 SEC. 145. Section 25443 of the Public Resources Code is  
5 amended to read:

6 25443. (a) Principal and interest payments on loans under this  
7 article shall be returned to the department and shall be used to  
8 make additional loans to local jurisdictions pursuant to Section  
9 25442 or to provide financial assistance to local jurisdictions  
10 pursuant to Section 25441.

11 (b) Notwithstanding any other provision of law, the department  
12 shall, unless it determines that the purposes of this chapter would  
13 be better served by establishing an alternative interest rate schedule,  
14 periodically set interest rates on the loans based on surveys of  
15 existing financial markets and at rates not less than 3 percent per  
16 annum.

17 SEC. 146. Section 25443.5 of the Public Resources Code is  
18 amended to read:

19 25443.5. (a) In furtherance of the purposes of the department  
20 as set forth in this chapter, the department has the power and  
21 authority to do all of the following:

22 (1) Borrow money, for the purpose of obtaining funds to make  
23 loans pursuant to this chapter, from the California Economic  
24 Development Financing Authority and the California Infrastructure  
25 and Economic Development Bank from the proceeds of revenue  
26 bonds issued by either of those agencies.

27 (2) Pledge, to provide collateral in connection with the  
28 borrowing of money pursuant to paragraph (1), loans made  
29 pursuant to this chapter or Chapter 5.2 (commencing with Section  
30 25410), or the principal and interest payments on loans made  
31 pursuant to this chapter or Chapter 5.2 (commencing with Section  
32 25410).

33 (3) Sell loans made pursuant to this chapter or Chapter 5.2  
34 (commencing with Section 25410), at prices determined in the  
35 sole discretion of the department, to the California Economic  
36 Development Financing Authority and the California Infrastructure  
37 and Economic Development Bank, to raise funds to enable the  
38 department to make loans to eligible institutions.

39 (4) Enter into loan agreements or other contracts necessary or  
40 appropriate in connection with the pledge or sale of loans pursuant

1 to paragraph (2) or (3), or the borrowing of money as provided in  
2 paragraph (1), containing any provisions that may be required by  
3 the California Economic Development Financing Authority, the  
4 California Infrastructure and Economic Development Bank, or the  
5 department as conditions of issuing bonds to fund loans to, or the  
6 purchase of loans from, the department.

7 (b) In connection with the pledging of loans, or of the principal  
8 and interest payment on loans, pursuant to paragraph (2) of  
9 subdivision (a), the department may enter into pledge agreements  
10 setting forth the terms and conditions pursuant to which the  
11 department is pledging loans or the principal and interest payment  
12 on loans, and may also agree to have the loans held by bond  
13 trustees or by independent collateral or escrow agents and to direct  
14 that payments received on those loans be paid to those trustee,  
15 collateral, or escrow agents.

16 (c) The department may employ financial consultants, legal  
17 advisers, accountants, and other service providers, as may be  
18 necessary in its judgment, in connection with activities pursuant  
19 to this chapter.

20 (d) Notwithstanding any other provision of law, this chapter  
21 provides a complete, separate, additional, and alternative method  
22 for implementing the measures authorized by this chapter,  
23 including the authority of the eligible institutions or local  
24 jurisdictions to have borrowed and to borrow in the future pursuant  
25 to loans made pursuant to this chapter or Chapter 5.2 (commencing  
26 with Section 25410), and is supplemental and additional to powers  
27 conferred by other laws.

28 SEC. 147. Section 25445 of the Public Resources Code is  
29 amended to read:

30 25445. The department shall design a local jurisdiction energy  
31 assistance program for the purpose of providing financial assistance  
32 under Article 2 (commencing with Section 25441) and providing  
33 loans under Article 3 (commencing with Section 25442). A local  
34 jurisdiction's energy assistance program shall be funded through  
35 the commission's existing local government assistance programs,  
36 except that if a project is not eligible for funding under an existing  
37 program, the department may fund the project under this chapter.

38 SEC. 148. Section 25449 of the Public Resources Code is  
39 amended to read:

1 25449. The department shall enter into an agreement with the  
2 Regents of the University of California, the Trustees of the  
3 California State University, and the Board of Governors of the  
4 California Community Colleges for the expenditure of petroleum  
5 violation escrow funds to supplement, and not supplant, other  
6 available funds to improve energy efficiency at state-supported  
7 universities and colleges under their respective jurisdictions by  
8 funding projects involving any of the following:

- 9 (a) Data collection.
- 10 (b) Establishment of operations and maintenance standards.
- 11 (c) Staff training.
- 12 (d) Ongoing energy equipment maintenance.
- 13 (e) Projects involving heating, ventilation, air conditioning, and  
14 lighting equipment.

15 This section shall remain in effect only until January 1, 2013,  
16 and as of that date is repealed, unless a later enacted statute, that  
17 is enacted before January 1, 2013, deletes or extends that date.

18 SEC. 149. Section 25449.3 of the Public Resources Code is  
19 amended to read:

20 25449.3. (a) The Local Jurisdiction Energy Assistance Account  
21 is hereby created in the General Fund. All money appropriated for  
22 purposes of this chapter and all money received from local  
23 jurisdictions from loan repayments shall be deposited in the account  
24 and disbursed by the Controller as authorized by the department.

25 (b) The department may charge a fee for the services provided  
26 under this chapter.

27 (c) The department may contract for services to be performed  
28 by eligible institutions, as defined in subdivision (c) of Section  
29 25411. Those services may include, but are not limited to,  
30 performance of a feasibility analysis, and providing project design,  
31 field evaluation, and operation and training assistance. The amount  
32 expended for contract services may not exceed 10 percent of the  
33 annual scheduled loan repayment to the Local Jurisdiction Energy  
34 Assistance Account, as determined by the department not later  
35 than July 1 of each fiscal year.

36 SEC. 149.1. Section 25450 of the Public Resources Code is  
37 amended to read:

38 25450. (a) The Legislature finds and declares all of the  
39 following:

1 (1) The cost of energy in California is increasing and creating  
2 greater demands on local governments' operating budgets.

3 (2) The 110th Congress enacted the Energy Independence and  
4 Security Act of 2007 (42 U.S.C. Sec. 17001 et seq.) that provides  
5 energy efficiency and conservation block grants to eligible entities,  
6 including states, to reduce fossil fuel emissions, improve energy  
7 efficiency, and reduce overall energy use.

8 (3) Section 545(c)(1)(A) of the Energy Independence and  
9 Security Act of 2007 (42 U.S.C. Sec. 17155(c)(1)(A)) mandates  
10 that states receiving block grants under the act use not less than  
11 60 percent of the grant amount to provide subgrants to local  
12 governments that are not eligible entities for the purposes of the  
13 act.

14 (4) The 111th Congress enacted the American Recovery and  
15 Reinvestment Act of 2009 (Public Law 111-5) that appropriates  
16 funds for energy efficiency and conservation block grants.

17 (b) It is the intent of the Legislature to fully implement the  
18 requirements for, and achieve the purposes of, the energy efficiency  
19 and conservation block grants provided pursuant to the Energy  
20 Independence and Security Act of 2007 and the American Recovery  
21 and Reinvestment Act of 2009 (Public Law 111-5), in the most  
22 expedient manner possible, and that the funds allocated to the state  
23 pursuant to those acts be administered by the department.

24 (c) It is the intent of the Legislature to strive to maximize the  
25 opportunity to allocate funds toward the most cost-effective energy  
26 efficiency projects, and when allocating funds toward  
27 administration, the department should use the allowable  
28 administrative expenses specified in Section 545(c)(4) of the  
29 Energy Independence and Security Act of 2007 (42 U.S.C. Sec.  
30 17155(c)(4)) as a ceiling and improve efficiencies to allocate less  
31 than the allowable amount.

32 SEC. 149.2. Section 25450.1 of the Public Resources Code is  
33 amended to read:

34 25450.1. The department shall administer the funds allocated  
35 to and received by the state pursuant to the Energy Independence  
36 and Security Act of 2007 (42 U.S.C. Sec. 17001 et seq.) and the  
37 American Recovery and Reinvestment Act of 2009 (Public Law  
38 111-5) for the Energy Efficiency and Conservation Block Grant  
39 Program established pursuant to Section 542 of the Energy  
40 Independence and Security Act of 2007 (42 U.S.C. Sec. 17152),

1 and may use the federal funds to award contracts, grants, and loans  
2 as expeditiously as possible consistent with those acts.

3 SEC. 149.3. Section 25450.3 of the Public Resources Code is  
4 amended to read:

5 25450.3. The department shall not exceed the amount specified  
6 in Section 545(c)(4) of the Energy Independence and Security Act  
7 of 2007 (42 U.S.C. Sec. 17155(c)(4)) for administrative expenses,  
8 which include, but are not limited to, reporting, recordkeeping,  
9 and evaluation activities required by the Energy Independence and  
10 Security Act of 2007 (42 U.S.C. Section 17001 et seq.), the  
11 American Recovery and Reinvestment Act of 2009 (Public Law  
12 111-5), and implementing regulations and guidelines, that govern  
13 or fund the Energy Efficiency and Conservation Block Grant  
14 Program, and the combined administration program costs, indirect  
15 costs, overhead, and costs associated with the Statewide Cost  
16 Allocation Plan.

17 SEC. 149.4. Section 25450.4 of the Public Resources Code is  
18 amended to read:

19 25450.4. The department may award contracts, grants, and  
20 loans pursuant to this chapter, unless otherwise prohibited by the  
21 Energy Independence and Security Act of 2007 (42 U.S.C. Sec.  
22 17001 et seq.), the American Recovery and Reinvestment Act of  
23 2009 (Public Law 111-5), implementing regulations and guidelines.

24 SEC. 149.5. Section 25450.5 of the Public Resources Code is  
25 amended to read:

26 25450.5. (a) The department may adopt guidelines governing  
27 the award, eligibility, and administration of funding pursuant to  
28 the American Recovery and Reinvestment Act of 2009 (Public  
29 Law 111-5) at a publicly noticed meeting offering all interested  
30 parties an opportunity to comment. The department shall provide  
31 written public notice of not less than 30 days for the initial adoption  
32 of guidelines. Substantive changes to the guidelines shall not be  
33 adopted without 15-day written notice to the public.  
34 Notwithstanding any other provision of law, any guidelines adopted  
35 pursuant to this chapter shall be exempt from the requirements of  
36 Chapter 3.5 (commencing with Section 11340) of Part 1 of Division  
37 3 of Title 2 of the Government Code.

38 (b) Grants and loans made pursuant to this chapter are subject  
39 to appeal to the department upon a showing that factors other than

1 those described in the guidelines adopted by the department were  
2 applied in making the awards and payments.

3 SEC. 149.6. Section 25460 of the Public Resources Code is  
4 amended to read:

5 25460. (a) The Legislature finds and declares that the 111th  
6 Congress enacted the American Recovery and Reinvestment Act  
7 of 2009 (Public Law 111-5) that appropriates funds for various  
8 energy programs administered by the commission.

9 (b) It is the intent of the Legislature that the department should  
10 have the authority to award contracts, grants, and loans from funds  
11 received pursuant to the American Recovery and Reinvestment  
12 Act of 2009 and to make the awards as expeditiously as possible.

13 SEC. 149.7. Section 25461 of the Public Resources Code is  
14 amended to read:

15 25461. (a) Except as provided in Chapter 5.5 (commencing  
16 with Section 25450), the department shall administer federal funds  
17 allocated to, and received by, the state for energy-related projects  
18 pursuant to the American Recovery and Reinvestment Act of 2009  
19 (Public Law 111-5) or federal acts related to the American  
20 Recovery and Reinvestment Act of 2009.

21 (b) Unless otherwise prohibited by the American Recovery and  
22 Reinvestment Act of 2009 (Public Law 111-5) or subsequent  
23 federal acts related to the American Recovery and Reinvestment  
24 Act of 2009, the department may use the federal funds to award  
25 contracts, grants, and loans for energy efficiency, energy  
26 conservation, renewable energy, and other energy-related projects  
27 and activities authorized by the American Recovery and  
28 Reinvestment Act of 2009 or subsequent federal acts related to the  
29 American Recovery and Reinvestment Act of 2009.

30 SEC. 149.8. Section 25462 of the Public Resources Code is  
31 amended to read:

32 25462. (a) The department may adopt guidelines governing  
33 the award, eligibility, and administration of funding pursuant to  
34 this chapter at a publicly noticed meeting offering all interested  
35 parties an opportunity to comment. The department shall provide  
36 written public notice of not less than 30 days for the initial adoption  
37 of guidelines. Substantive changes to the guidelines shall not be  
38 adopted without 15-day written notice to the public.  
39 Notwithstanding any other provision of law, any guidelines adopted  
40 pursuant to this chapter shall be exempt from the requirements of

1 Chapter 3.5 (commencing with Section 11340) of Part 1 of Division  
2 3 of Title 2 of the Government Code.

3 (b) Grants and loans made pursuant to this chapter are subject  
4 to appeal to the department upon a showing that factors other than  
5 those described in the guidelines adopted by the department were  
6 applied in making the awards and payments.

7 SEC. 149.9. Section 25463 of the Public Resources Code is  
8 amended to read:

9 25463. (a) Notwithstanding any other provision of this  
10 division, federal funds available to the department pursuant to this  
11 chapter may be used by the commission to augment funding for  
12 any programs or measures authorized by this division unless  
13 otherwise prohibited by the American Recovery and Reinvestment  
14 Act of 2009 (Public Law 111-5). The department may administer  
15 any funds used to augment other programs using the procedures  
16 of the augmented program consistent with applicable federal law.

17 (b) This section shall be liberally construed to maximize the  
18 department's ability to utilize and award federal funds  
19 expeditiously and in accordance with the American Recovery and  
20 Reinvestment Act of 2009 or federal acts related to the American  
21 Recovery and Reinvestment Act of 2009.

22 SEC. 149.10. Section 25470 of the Public Resources Code is  
23 amended to read:

24 25470. As used in this chapter:

25 (a) "Act" means the federal American Recovery and  
26 Reinvestment Act of 2009 (Public Law 111-5).

27 (b) "Allocation" means a loan of funds by the Department of  
28 General Services pursuant to the procedures specified in this  
29 chapter.

30 (c) "Building" means any existing structure that includes a  
31 heating or cooling system, or both. Additions to an existing  
32 building shall be considered part of that building rather than a  
33 separate building.

34 (d) "Energy audit" means a determination of the energy  
35 consumption characteristics of a building that does all of the  
36 following:

37 (1) Identifies the type, size, and energy use level of the building  
38 and the major energy using systems of the building.

39 (2) Determines appropriate energy conservation maintenance  
40 and operating procedures.

1 (3) Indicates the need, if any, for the acquisition and installation  
2 of energy conservation measures.

3 (e) “Energy conservation maintenance and operating procedure”  
4 means a modification or modifications in the maintenance and  
5 operations of a building, and any installations therein, based on  
6 the use time schedule of the building that are designed to reduce  
7 energy consumption in the building and that require no significant  
8 expenditure of funds.

9 (f) “Energy conservation measure” means an installation or  
10 modification of an installation in a building that is primarily  
11 intended to reduce energy consumption or allow the use of a more  
12 cost-effective energy source.

13 (g) “Energy conservation project” means an undertaking to  
14 acquire and to install one or more energy conservation measures  
15 in a building, and technical assistance in connection with that  
16 undertaking.

17 (h) “Fund” means the Energy Efficient State Property Revolving  
18 Fund.

19 (i) “Project” means a purpose for which an allocation may be  
20 requested and made under this chapter. Those purposes shall  
21 include energy audits, energy conservation and operating  
22 procedures, and energy conservation measures in existing  
23 buildings, and energy conservation projects.

24 (j) “State agency” means a unit of state government, including  
25 any department, agency, board, or commission under the State of  
26 California.

27 (k) “State-owned building” means a building that is primarily  
28 occupied by offices or agencies of a unit of state government and  
29 includes those properties owned by the State of California.

30 SEC. 149.11. Section 25471 of the Public Resources Code is  
31 amended to read:

32 25471. (a) There is hereby created in the State Treasury the  
33 Energy Efficient State Property Revolving Fund for the purpose  
34 of implementing this chapter. Notwithstanding Section 13340 of  
35 the Government Code, the money in this fund is continuously  
36 appropriated to the Department of General Services, without regard  
37 to fiscal years, for loans for projects on state-owned buildings and  
38 facilities to achieve greater, long-term energy efficiency, energy  
39 conservation, and energy cost and use avoidance.

1 (b) The fund shall be administered by the Department of General  
2 Services. The Department of General Services may use other  
3 funding sources to leverage project loans.

4 (c) For the 2009–10 fiscal year, the sum of twenty-five million  
5 dollars (\$25,000,000) shall be transferred into the Energy Efficient  
6 State Property Revolving Fund from money received by the  
7 department pursuant to the act to be used for purposes of the federal  
8 State Energy Program.

9 (d) The Controller shall disburse moneys in the fund for the  
10 purposes of this chapter, as authorized by the Department of  
11 General Services.

12 (e) Moneys in the fund, including all interest earnings, shall be  
13 clearly delineated and distinctly accounted for in accordance with  
14 the requirements of the act.

15 SEC. 149.12. Section 25472 of the Public Resources Code is  
16 amended to read:

17 25472. (a) The Department of General Services, in consultation  
18 with the department, shall establish a process by which projects  
19 are identified and funding is allocated.

20 (b) Beginning July 1, 2009, the Department of General Services  
21 shall use money in the fund for projects that will improve long-term  
22 energy efficiency and increase energy use savings.

23 (c) The Department of General Services shall comply with the  
24 requirements of the act and implementing guidelines of the  
25 department, including, but not limited to, performance metrics,  
26 data collection, and reporting. All projects must be consistent with  
27 these requirements and guidelines.

28 (d) Funding prioritization shall be granted to those projects that  
29 are cost-effective and will yield immediate and sustainable energy  
30 efficiency, energy conservation, energy use cost savings, and cost  
31 avoidance.

32 (e) The Department of General Services shall fund allowable  
33 projects through a loan to the appropriate state agency or agencies  
34 occupying the building or facility for which the project will be  
35 performed.

36 (f) The Department of General Services shall determine a  
37 reasonable loan repayment schedule that may not exceed the life  
38 of the energy conservation measure equipment, as determined by  
39 the Department of General Services, or the lease term of the  
40 building in which the energy conservation measure is installed.

1 (g) Maximum loan amounts shall be based on estimated energy  
2 cost savings that will allow state agencies to repay loan principal  
3 and interest within the maximum repayment term specified in this  
4 section.

5 (h) The Department of General Services shall periodically set  
6 interest rates on the loans based on surveys of existing financial  
7 markets and at rates of not less than 1 percent per annum.

8 (i) Annual loan repayment amounts shall be structured so as to  
9 reflect the projected annualized energy cost avoidance estimated  
10 from the completed project. The Department of General Services  
11 may utilize a direct billing methodology to recover loan repayments  
12 for completed projects.

13 SEC. 149.13. Section 25473 of the Public Resources Code is  
14 amended to read:

15 25473. (a) On or before January 1, 2010, and annually  
16 thereafter, the Department of General Services, in collaboration  
17 with the department, shall submit to the Legislature’s fiscal and  
18 appropriate policy committees a report that includes an initial list  
19 of projects identified and planned for the 2009–10 fiscal year, and  
20 for each fiscal year thereafter. The report also shall include the  
21 anticipated cost of each project, an analysis of the results of the  
22 methodology, and an estimate of energy savings to be achieved.

23 (b) On or before July 1, 2010, the Department of General  
24 Services, in collaboration with the department, shall submit to the  
25 Legislature an update to the January 1, 2010, report.

26 SEC. 149.14. Section 25474 of the Public Resources Code is  
27 amended to read:

28 25474. (a) Any repayment of loans made pursuant to this  
29 chapter, including interest payments, and all interest earnings on  
30 or accruing to, any money resulting from the implementation of  
31 this chapter in the Energy Efficient State Property Revolving Fund,  
32 shall be deposited in that fund and shall be available for the  
33 purposes of this chapter.

34 (b) The Department of General Services may recover costs of  
35 administering the projects and related costs through energy utility  
36 rebates awarded to the state agency as a result of completed projects  
37 up to 5 percent of the project loan amounts. Project costs can  
38 include energy efficiency improvements and costs associated with  
39 managing the project and administering the loan program, including  
40 all reporting requirements.

1 SEC. 150. Section 25494 of the Public Resources Code is  
2 amended to read:

3 25494. Not later than July 31, 1978, the department shall  
4 prepare a manual outlining a methodology by which governmental  
5 agencies and the general public may at their option compare the  
6 lifecycle costs of various building design alternatives. This manual  
7 will provide the information and procedures necessary to evaluate  
8 a building's lifecycle costs in the microclimate and utility service  
9 area where it is to be built.

10 SEC. 151. Section 25496 of the Public Resources Code is  
11 amended to read:

12 25496. No later than July 1, 1978, the commission shall develop  
13 and make available to government agencies and the general public  
14 to be utilized at their option lighting standards for existing  
15 buildings. These standards shall address, but not be limited to, task  
16 and general area lighting levels, light switching and control  
17 mechanisms, and lighting energy budgets. The department may  
18 provide advice and recommendations to the public or any  
19 governmental agency as to the standards.

20 *SEC. 152. Chapter 5.10 (commencing with Section 25499) is*  
21 *added to Division 15 of the Public Resources Code, to read:*

22

23 *CHAPTER 5.10. LOW-INCOME ENERGY ASSISTANCE AND*  
24 *COMMUNITY SERVICES*

25

26 25499. (a) *The Legislature finds and declares all of the*  
27 *following:*

28 (1) *Low-income energy assistance programs, including the Low*  
29 *Income Home Energy Assistance Program (LIHEAP) and the*  
30 *Weatherization Assistance Program (WAP), and Community*  
31 *Service Block Grant programs are administered in California*  
32 *through a statewide network of community-based organizations,*  
33 *including public and private nonprofit agencies, that serve as local*  
34 *service providers for a comprehensive suite of assistance programs*  
35 *designed to ameliorate the causes and impacts of poverty.*

36 (2) *The network of local service providers work closely with*  
37 *their fellow nonprofit agencies as well as the private sector to meet*  
38 *the disparate needs of low-income individuals and families by*  
39 *providing a variety of interrelated services, including home energy,*  
40 *nutrition, housing, and employment.*

1 (3) Unlike various other energy conservation and energy  
 2 efficiency programs administered by the state, the state's LIHEAP  
 3 and WAP programs are designed specifically to meet the  
 4 energy-related health and safety needs of low-income individuals  
 5 and families.

6 (b) It is the intent of the Legislature to ensure that these energy  
 7 and community service programs funded by federal block grants  
 8 continue to be administered by a single entity that will maintain  
 9 and support the provision of a comprehensive suite of assistance  
 10 services to low-income individuals and families and that the  
 11 positive impact of these programs on the target population of  
 12 low-income individuals and families not be diluted or redirected  
 13 to other purposes.

14 25499.1. The programs transferred pursuant to subdivision  
 15 (d) of Section 25202 shall be identified as a separate line item in  
 16 the annual Budget Act.

17 25499.2. The department shall administer the programs and  
 18 activities transferred pursuant to subdivision (d) of Section 25202  
 19 in compliance with Article 1.7 (commencing with Section 16366.1)  
 20 of Chapter 2 of Part 2 of Division 4 of, and Chapter 9 (commencing  
 21 with Section 12725) of Part 2 of Division 3 of, Title 2 of the  
 22 Government Code. This chapter does not authorize the use of  
 23 federal block grant funds in a manner that is inconsistent with  
 24 federal law or state law, including Section 12758 of the  
 25 Government Code.

26 SEC. 154. Section 25501 of the Public Resources Code is  
 27 amended to read:

28 25501. This chapter does not apply to any site or related facility  
 29 that was not subject to this chapter prior to January 1, 2010, and  
 30 that, as of July 1, 2010, has an application accepted as complete  
 31 by the agency with jurisdiction on December 31, 2009.

32 SEC. 155. Section 25501.7 of the Public Resources Code is  
 33 amended to read:

34 25501.7. A person proposing to construct a facility or a site to  
 35 which Section 25501 applies may waive the exclusion of the site  
 36 and related facility from the provisions of this chapter by  
 37 submitting to the commission an application and any and all of  
 38 the provisions of this chapter shall apply to the construction of the  
 39 facility.

1 SEC. 156. Section 25502 of the Public Resources Code is  
2 repealed.

3 SEC. 157. Section 25503 of the Public Resources Code is  
4 repealed.

5 SEC. 158. Section 25504 of the Public Resources Code is  
6 repealed.

7 SEC. 159. Section 25504.5 of the Public Resources Code is  
8 repealed.

9 SEC. 160. Section 25505 of the Public Resources Code is  
10 repealed.

11 SEC. 161. Section 25506 of the Public Resources Code is  
12 repealed.

13 SEC. 162. Section 25506.5 of the Public Resources Code is  
14 repealed.

15 SEC. 163. Section 25507 of the Public Resources Code is  
16 repealed.

17 SEC. 164. Section 25508 of the Public Resources Code is  
18 amended to read:

19 25508. The department shall cooperate with, and render advice  
20 to, the California Coastal Commission and the San Francisco Bay  
21 Conservation and Development Commission in studying  
22 applications for any site and related facility proposed to be located,  
23 in whole or in part, within the coastal zone, the Suisun Marsh, or  
24 the jurisdiction of the San Francisco Bay Conservation and  
25 Development Commission if requested by the California Coastal  
26 Commission or the San Francisco Bay Conservation and  
27 Development Commission, as the case may be. The California  
28 Coastal Commission or the San Francisco Bay Conservation and  
29 Development Commission, as the case may be, may participate in  
30 public hearings on the application for site and related facility  
31 certification as an interested party in those proceedings.

32 SEC. 165. Section 25509 of the Public Resources Code is  
33 repealed.

34 SEC. 166. Section 25509.5 of the Public Resources Code is  
35 repealed.

36 SEC. 167. Section 25510 of the Public Resources Code is  
37 repealed.

38 SEC. 168. Section 25511 of the Public Resources Code is  
39 repealed.

1 SEC. 169. Section 25512 of the Public Resources Code is  
 2 repealed.  
 3 SEC. 170. Section 25512.5 of the Public Resources Code is  
 4 repealed.  
 5 SEC. 171. Section 25513 of the Public Resources Code is  
 6 repealed.  
 7 SEC. 172. Section 25514 of the Public Resources Code is  
 8 repealed.  
 9 SEC. 173. Section 25514.3 of the Public Resources Code is  
 10 repealed.  
 11 SEC. 174. Section 25514.5 of the Public Resources Code is  
 12 repealed.  
 13 SEC. 175. Section 25515 of the Public Resources Code is  
 14 repealed.  
 15 SEC. 176. Section 25516 of the Public Resources Code is  
 16 repealed.  
 17 SEC. 177. Section 25516.1 of the Public Resources Code is  
 18 repealed.  
 19 SEC. 178. Section 25516.5 of the Public Resources Code is  
 20 repealed.  
 21 SEC. 179. Section 25516.6 of the Public Resources Code is  
 22 repealed.  
 23 SEC. 180. Section 25517 of the Public Resources Code is  
 24 amended to read:  
 25 25517. Except as provided in Section 25501, construction of  
 26 a powerplant or electric transmission line shall not be commenced  
 27 by an electric utility without first obtaining certification as  
 28 prescribed in this division. Any onsite improvements not qualifying  
 29 as construction may be required to be restored as determined by  
 30 the commission to be necessary to protect the environment, if  
 31 certification is denied.  
 32 SEC. 182. Section 25519 of the Public Resources Code is  
 33 amended to read:  
 34 25519. (a) In order to obtain certification for a site and related  
 35 facility, an application for certification of the site and related  
 36 facility shall be filed with the department. The application shall  
 37 be in a form prescribed by the department.  
 38 (b) The department, upon its own motion or in response to the  
 39 request of any party, may require the applicant to submit any  
 40 information, document, or data, in addition to the attachments

1 required by subdivision (i), that it determines is reasonably  
2 necessary to make any decision on the application.

3 (c) The department shall be the lead agency as provided in  
4 Section 21165 for all projects that require certification pursuant  
5 to this chapter and for projects that are exempted from such  
6 certification pursuant to Section 25541. Unless the commission's  
7 regulatory program governing site and facility certification and  
8 related proceedings are certified by the Natural Resources Agency  
9 pursuant to Section 21080.5, an environmental impact report shall  
10 be completed within one year after receipt of the application. If  
11 the department prepares a document or documents in the place of  
12 an environmental impact report or negative declaration under a  
13 regulatory program certified pursuant to Section 21080.5, any  
14 other public agency that must make a decision that is subject to  
15 the California Environmental Quality Act, Division 13  
16 (commencing with Section 21000), on a site or related facility,  
17 shall use the document or documents prepared by the department  
18 in the same manner as they would use an environmental impact  
19 report or negative declaration prepared by a lead agency.

20 (d) If the site and related facility specified in the application is  
21 proposed to be located in the coastal zone, the department shall  
22 transmit a copy of the application to the California Coastal  
23 Commission for its review and comments.

24 (e) If the site and related facility specified in the application is  
25 proposed to be located in the Suisun Marsh or the jurisdiction of  
26 the San Francisco Bay Conservation and Development  
27 Commission, the department shall transmit a copy of the  
28 application to the San Francisco Bay Conservation and  
29 Development Commission for its review and comments.

30 (f) Upon receipt of an application, the department shall forward  
31 the application to local governmental agencies having land use  
32 and related jurisdiction in the area of the proposed site and related  
33 facility. Those local agencies shall review the application and  
34 submit comments on, among other things, the design of the facility,  
35 architectural and aesthetic features of the facility, access to  
36 highways, landscaping and grading, public use of lands in the area  
37 of the facility, and other appropriate aspects of the design,  
38 construction, or operation of the proposed site and related facility.

39 (g) Upon receipt of an application, the department shall cause  
40 a summary of the application to be published in a newspaper of

1 general circulation in the county in which the site and related  
2 facilities, or any part thereof, designated in the application, is  
3 proposed to be located. The department shall transmit a copy of  
4 the application to each federal and state agency having jurisdiction  
5 or special interest in matters pertinent to the proposed site and  
6 related facilities and to the Attorney General.

7 (h) Local and state agencies having jurisdiction or special  
8 interest in matters pertinent to the proposed site and related  
9 facilities shall provide their comments and recommendations on  
10 the project within 180 days of the date of filing of an application.

11 (i) The adviser shall require that adequate notice is given to the  
12 public and that the procedures specified by this division are  
13 complied with.

14 (j) For any proposed site and related facility requiring a  
15 certificate of public convenience and necessity, the department  
16 shall transmit a copy of the application to the Public Utilities  
17 Commission and request the comments and recommendations of  
18 the Public Utilities Commission on the economic, financial, rate,  
19 system reliability, and service implications of the proposed site  
20 and related facility. If the department requires modification of the  
21 proposed facility, the department shall consult with the Public  
22 Utilities Commission regarding the economic, financial, rate,  
23 system reliability, and service implications of those modifications.

24 (k) The department shall transmit a copy of the application to  
25 any governmental agency not specifically mentioned in this act,  
26 but which it finds has any information or interest in the proposed  
27 site and related facilities, and shall invite the comments and  
28 recommendations of each agency. The department shall request  
29 any relevant laws, ordinances, or regulations that an agency has  
30 promulgated or administered.

31 (l) An application for certification of any site and related  
32 facilities shall contain a listing of every federal agency from which  
33 any approval or authorization concerning the proposed site is  
34 required, specifying the approvals or authorizations obtained at  
35 the time of the application and the schedule for obtaining any  
36 approvals or authorizations pending.

37 SEC. 183. Section 25520 of the Public Resources Code is  
38 amended to read:

1 25520. The application shall contain all of the following  
2 information and any other information that the commission by  
3 regulation may require:

4 (a) A detailed description of the design, construction, and  
5 operation of the proposed facility.

6 (b) Safety and reliability information, including, but not limited  
7 to, planned provisions for emergency operations and shutdowns.

8 (c) Available site information, including maps and descriptions  
9 of present and proposed development and, as appropriate,  
10 geological, aesthetic, ecological, seismic, water supply, population,  
11 and load center data, and justification for the particular site  
12 proposed.

13 (d) Any other information relating to the design, operation, and  
14 siting of the facility that the commission may specify.

15 (e) A description of the facility, the cost of the facility, the fuel  
16 to be used, the source of fuel, fuel cost, plant service life and  
17 capacity factor, and generating cost per kilowatthour.

18 (f) A description of any electric transmission lines, including  
19 the estimated cost of the proposed electric transmission line; a map  
20 in suitable scale of the proposed routing showing details of the  
21 rights-of-way in the vicinity of settled areas, parks, recreational  
22 areas, and scenic areas, and existing transmission lines within one  
23 mile of the proposed route; justification for the route, and a  
24 preliminary description of the effect of the proposed electric  
25 transmission line on the environment, ecology, and scenic, historic,  
26 and recreational values.

27 (g) A discussion of the applicant's site selection criteria, any  
28 alternative sites that the applicant considered for the project, and  
29 the reasons why the applicant chose the proposed site. This  
30 subdivision does not apply to an application for certification of  
31 any of the following:

32 (1) A modification of an existing facility.

33 (2) A powerplant that can be sited, in a technologically or  
34 economically feasible manner, only at or near the energy source.

35 (3) A cogeneration project at an existing industrial site.

36 (4) A *thermal* powerplant at an existing industrial site, if the  
37 commission finds that the project has a strong relationship to the  
38 existing industrial site and that it is therefore reasonable not to  
39 analyze alternative sites for the project.

1 SEC. 184. Section 25520.5 of the Public Resources Code is  
2 repealed.

3 SEC. 185. Section 25522 of the Public Resources Code is  
4 amended to read:

5 25522. (a) Within 12 months of the filing of an application  
6 for certification or at any later time as is mutually agreed by the  
7 department and the applicant, the commission shall issue a written  
8 decision as to the application.

9 (b) The department shall determine, within 45 days after it  
10 receives the application, whether the application is complete. If  
11 the department determines that the application is complete, the  
12 application shall be deemed filed for purposes of this section on  
13 the date that this determination is made. If the department  
14 determines that the application is incomplete, the commission shall  
15 specify in writing those parts of the application which are  
16 incomplete and shall indicate the manner in which it can be made  
17 complete. If the applicant submits additional data to complete the  
18 application, the department shall determine, within 30 days after  
19 receipt of that data, whether the data is sufficient to make the  
20 application complete. The application shall be deemed filed on the  
21 date when the department determines the application is complete  
22 if the commission has adopted regulations specifying the  
23 informational requirements for a complete application, but if the  
24 commission has not adopted regulations, the application shall be  
25 deemed filed on the last date the department receives any additional  
26 data that completes the application.

27 SEC. 186. Section 25523 of the Public Resources Code is  
28 amended to read:

29 25523. The commission shall prepare a written decision after  
30 the public hearing on an application that includes all of the  
31 following:

32 (a) Specific provisions relating to the manner in which the  
33 proposed facility is to be designed, sited, and operated in order to  
34 protect environmental quality and assure public health and safety.

35 (b) In the case of a site to be located in the coastal zone, specific  
36 provisions to meet the objectives of Division 20 (commencing  
37 with Section 30000) as may be specified in the report submitted  
38 by the California Coastal Commission pursuant to subdivision (d)  
39 of Section 30413, unless the department specifically finds that the  
40 adoption of the provisions specified in the report would result in

1 greater adverse effect on the environment or that the provisions  
2 proposed in the report would not be feasible.

3 (c) In the case of a site to be located in the Suisun Marsh or in  
4 the jurisdiction of the San Francisco Bay Conservation and  
5 Development Commission, specific provisions to meet the  
6 requirements of Division 19 (commencing with Section 29000)  
7 of this code or Title 7.2 (commencing with Section 66600) of the  
8 Government Code as may be specified in the report submitted by  
9 the San Francisco Bay Conservation and Development Commission  
10 pursuant to subdivision (d) of Section 66645 of the Government  
11 Code, unless the department specifically finds that the adoption  
12 of the provisions specified in the report would result in greater  
13 adverse effect on the environment or the provisions proposed in  
14 the report would not be feasible.

15 (d) (1) Findings regarding the conformity of the proposed site  
16 and related facilities with standards adopted by the commission  
17 pursuant to Section 25216.3 and subdivision (d) of Section 25402,  
18 with public safety standards and the applicable air and water quality  
19 standards, and with other applicable local, regional, state, and  
20 federal standards, ordinances, or laws. If the commission finds  
21 that there is noncompliance with a state, local, or regional  
22 ordinance or regulation in the application, it shall consult and meet  
23 with the state, local, or regional governmental agency concerned  
24 to attempt to correct or eliminate the noncompliance. If the  
25 noncompliance cannot be corrected or eliminated, the commission  
26 shall inform the state, local, or regional governmental agency if it  
27 makes the findings required by Section 25525.

28 (2) The commission shall not find that the proposed facility  
29 conforms with applicable air quality standards pursuant to  
30 paragraph (1) unless the applicable air pollution control district or  
31 air quality management district certifies, prior to the licensing of  
32 the project by the commission, that complete emissions offsets for  
33 the proposed facility have been identified and will be obtained by  
34 the applicant within the time required by the district's rules or  
35 unless the applicable air pollution control district or air quality  
36 management district certifies that the applicant requires emissions  
37 offsets to be obtained prior to the commencement of operation  
38 consistent with Section 42314.3 of the Health and Safety Code  
39 and prior to commencement of the operation of the proposed  
40 facility. The commission shall require as a condition of certification

1 that the applicant obtain any required emission offsets within the  
2 time required by the applicable district rules, consistent with any  
3 applicable federal and state laws and regulations, and prior to the  
4 commencement of the operation of the proposed facility.

5 (e) Provision for restoring the site as necessary to protect the  
6 environment, if the commission denies approval of the application.

7 (f) In the case of a site and related facility using resource  
8 recovery (waste-to-energy) technology, specific conditions  
9 requiring that the facility be monitored to ensure compliance with  
10 paragraphs (1), (2), (3), and (6) of subdivision (a) of Section 42315  
11 of the Health and Safety Code.

12 (g) In the case of a facility, other than a resource recovery  
13 facility subject to subdivision (f), specific conditions requiring the  
14 facility to be monitored to ensure compliance with toxic air  
15 contaminant control measures adopted by an air pollution control  
16 district or air quality management district pursuant to subdivision  
17 (d) of Section 39666 or Section 41700 of the Health and Safety  
18 Code, whether the measures were adopted before or after issuance  
19 of a determination of compliance by the district.

20 (h) A discussion of any public benefits from the project  
21 including, but not limited to, economic benefits, environmental  
22 benefits, and electricity reliability benefits.

23 SEC. 187. Section 25524.1 of the Public Resources Code is  
24 amended to read:

25 25524.1. (a) Except for the existing Diablo Canyon Units 1  
26 and 2 owned by Pacific Gas and Electric Company and San Onofre  
27 Units 2 and 3 owned by Southern California Edison Company and  
28 San Diego Gas and Electric Company, a nuclear fission *thermal*  
29 powerplant requiring the reprocessing of fuel rods, including any  
30 to which this chapter does not otherwise apply, excepting any  
31 having a vested right as defined in this section, shall not be  
32 permitted land use in the state or, where applicable, certified by  
33 the commission until both of the following conditions are met:

34 (1) The commission finds that the United States through its  
35 authorized agency has identified and approved, and there exists a  
36 technology for the construction and operation of, nuclear fuel rod  
37 reprocessing plants.

38 (2) The commission has reported its findings and the reasons  
39 therefor pursuant to paragraph (1) to the Legislature. That report  
40 shall be assigned to the appropriate policy committees for review.

1 The commission may proceed to certify nuclear fission thermal  
2 powerplants 100 legislative days after reporting the commission's  
3 findings unless within those 100 legislative days either house of  
4 the Legislature adopts by a majority vote of its members a  
5 resolution disaffirming the findings of the commission made  
6 pursuant to paragraph (1).

7 (3) A resolution of disaffirmance shall set forth the reasons for  
8 the action and shall provide, to the extent possible, guidance to  
9 the commission as to an appropriate method of bringing the  
10 commission's findings into conformance with paragraph (1).

11 (4) If a disaffirming resolution is adopted, the commission shall  
12 reexamine its original findings consistent with matters raised in  
13 the resolution. On conclusion of its reexamination, the commission  
14 shall transmit its findings in writing, with the reasons therefor, to  
15 the Legislature.

16 (5) If the findings are that the conditions of paragraph (1) have  
17 been met, the commission may proceed to certify nuclear fission  
18 *thermal* powerplants 100 legislative days after reporting its findings  
19 to the Legislature unless within those 100 legislative days both  
20 houses of the Legislature act by statute to declare the findings null  
21 and void and takes appropriate action.

22 (6) To allow sufficient time for the Legislature to act, the reports  
23 of findings of the commission shall be submitted to the Legislature  
24 at least six calendar months prior to the adjournment of the  
25 Legislature sine die.

26 (b) The commission shall further find on a case-by-case basis  
27 that facilities with adequate capacity to reprocess nuclear fuel rods  
28 from a certified nuclear facility or to store that fuel if that storage  
29 is approved by an authorized agency of the United States are in  
30 actual operation or will be in operation at the time that the nuclear  
31 facility requires reprocessing or storage; provided, however, that  
32 the storage of fuel is in an offsite location to the extent necessary  
33 to provide continuous onsite full core reserve storage capacity.

34 (c) The department shall continue to receive and process  
35 applications for certification pursuant to this division, but the  
36 commission shall not issue a decision pursuant to Section 25523  
37 granting a certificate until the requirements of this section have  
38 been met. All other permits, licenses, approvals, or authorizations  
39 for the entry or use of the land, including orders of court, which  
40 may be required may be processed and granted by the governmental

1 entity concerned, but construction work to install permanent  
2 equipment or structures shall not commence until the requirements  
3 of this section have been met.

4 SEC. 188. Section 25524.2 of the Public Resources Code is  
5 amended to read:

6 25524.2. Except for the existing Diablo Canyon Units 1 and 2  
7 owned by Pacific Gas and Electric Company and San Onofre Units  
8 2 and 3 owned by Southern California Edison Company and San  
9 Diego Gas and Electric Company, a nuclear fission *thermal*  
10 powerplant, including any to which this chapter does not otherwise  
11 apply, but excepting those exempted herein, shall not be permitted  
12 land use in the state, or where applicable, be certified by the  
13 commission until both of the following conditions have been met:

14 (a) The commission finds that there has been developed and  
15 that the United States through its authorized agency has approved  
16 and there exists a demonstrated technology or means for the  
17 disposal of high-level nuclear waste.

18 (b) (1) The commission has reported its findings and the reasons  
19 therefor pursuant to paragraph (a) to the Legislature. That report  
20 shall be assigned to the appropriate policy committees for review.  
21 The commission may proceed to certify nuclear fission thermal  
22 powerplants 100 legislative days after reporting the commission's  
23 findings unless within those 100 legislative days either house of  
24 the Legislature adopts by a majority vote of its members a  
25 resolution disaffirming the findings of the commission made  
26 pursuant to subdivision (a).

27 (2) A resolution of disaffirmance shall set forth the reasons for  
28 the action and shall provide, to the extent possible, guidance to  
29 the commission as to an appropriate method of bringing the  
30 commission's findings into conformance with subdivision (a).

31 (3) If a disaffirming resolution is adopted, the commission shall  
32 reexamine its original findings consistent with matters raised in  
33 the resolution. On conclusion of its reexamination, the commission  
34 shall transmit its findings in writing, with the reasons therefor, to  
35 the Legislature.

36 (4) If the findings are that the conditions of subdivision (a) have  
37 been met, the commission may proceed to certify nuclear fission  
38 *thermal* powerplants 100 legislative days after reporting its findings  
39 to the Legislature unless within those 100 legislative days both

1 houses of the Legislature act by statute to declare the findings null  
2 and void and take appropriate action.

3 (5) To allow sufficient time for the Legislature to act, the reports  
4 of findings of the commission shall be submitted to the Legislature  
5 at least six calendar months prior to the adjournment of the  
6 Legislature sine die.

7 (c) As used in subdivision (a), “technology or means for the  
8 disposal of high-level nuclear waste” means a method for the  
9 permanent and terminal disposition of high-level nuclear waste.  
10 Nothing in this section requires that facilities for the application  
11 of that technology or means be available at the time that the  
12 commission makes its findings. That disposition of high-level  
13 nuclear waste does not preclude the possibility of an approved  
14 process for retrieval of the waste.

15 (d) The department shall continue to receive and process  
16 applications for certification pursuant to this division but the  
17 commission shall not issue a decision pursuant to Section 25523  
18 granting a certificate until the requirements of this section have  
19 been met. All other permits, licenses, approvals, or authorizations  
20 for the entry or use of the land, including orders of court, which  
21 may be required may be processed and granted by the governmental  
22 entity concerned, but construction work to install permanent  
23 equipment or structures shall not commence until the requirements  
24 of this section have been met.

25 SEC. 189. Section 25524.5 of the Public Resources Code is  
26 repealed.

27 SEC. 190. Section 25525 of the Public Resources Code is  
28 amended to read:

29 25525. The commission shall not certify a facility contained  
30 in the application if it finds, pursuant to subdivision (d) of Section  
31 25523, that the facility does not conform with any applicable state,  
32 local, or regional standards, ordinances, or laws, unless the  
33 commission determines that the facility is required for public  
34 convenience and necessity and that there are not more prudent and  
35 feasible means of achieving public convenience and necessity. In  
36 making the determination, the commission shall consider the entire  
37 record of the proceeding, including, but not limited to, the impacts  
38 of the facility on the environment, consumer benefits, and electric  
39 system reliability. The commission shall not make a finding in  
40 conflict with applicable federal law or regulation. The basis for

1 these findings shall be reduced to writing and submitted as part of  
2 the record pursuant to Section 25523.

3 SEC. 191. Section 25526 of the Public Resources Code is  
4 amended to read:

5 25526. (a) The commission shall not approve as a site for a  
6 facility any location designated by the California Coastal  
7 Commission pursuant to subdivision (b) of Section 30413, unless  
8 the California Coastal Commission first finds that the use is not  
9 inconsistent with the primary uses of the land and that there will  
10 be no substantial adverse environmental effects and unless the  
11 approval of any public agency having ownership or control of such  
12 land is obtained.

13 (b) The commission shall not approve as a site for a facility any  
14 location designated by the San Francisco Bay Conservation and  
15 Development Commission pursuant to subdivision (b) of Section  
16 66645 of the Government Code unless the San Francisco Bay  
17 Conservation and Development Commission first finds that the  
18 use is not inconsistent with the primary uses of the land and that  
19 there will be no substantial adverse environmental effects and  
20 unless the approval of any public agency having ownership or  
21 control of the land is obtained.

22 SEC. 192. Section 25527 of the Public Resources Code is  
23 amended to read:

24 25527. The following areas of the state shall not be approved  
25 as a site for a facility, unless the commission finds that the use is  
26 not inconsistent with the primary uses of the lands and that there  
27 will be no substantial adverse environmental effects and the  
28 approval of any public agency having ownership or control of the  
29 lands is obtained:

30 (a) State, regional, county and city parks; wilderness, scenic or  
31 natural reserves; areas for wildlife protection, recreation, historic  
32 preservation; or natural preservation areas in existence on the  
33 effective date of this division.

34 (b) Estuaries in an essentially natural and undeveloped state.  
35 In considering applications for certification, the commission  
36 shall give the greatest consideration to the need for protecting areas  
37 of critical environmental concern, including, but not limited to,  
38 unique and irreplaceable scientific, scenic, and educational wildlife  
39 habitats; unique historical, archaeological, and cultural sites; lands

1 of hazardous concern; and areas under consideration by the state  
2 or the United States for wilderness, or wildlife and game reserves.

3 SEC. 193. Section 25528 of the Public Resources Code is  
4 amended to read:

5 25528. (a) (1) The commission shall require, as a condition  
6 of certification of any site and related facility, that the applicant  
7 acquire, by grant or contract, the right to prohibit development of  
8 privately owned lands in the area of the proposed site that will  
9 result in population densities in excess of the maximum population  
10 densities that the commission determines, as to the factors  
11 considered by the commission pursuant to subdivision (b) of  
12 Section 25520, are necessary to protect public health and safety.

13 (2) If the applicant is authorized to exercise the right of eminent  
14 domain under Article 7 (commencing with Section 610) of Chapter  
15 3 of Part 1 of Division 1 of the Public Utilities Code, the applicant  
16 may exercise the right of eminent domain to acquire those  
17 development rights that the commission requires be acquired.

18 (b) In the case of an application for a nuclear facility, the area  
19 and population density necessary to insure the public's health and  
20 safety designated by the commission shall be that as determined  
21 from time to time by the United States Nuclear Regulatory  
22 Commission, if the commission finds that the determination is  
23 sufficiently definitive for valid land use planning requirements.

24 (c) The commission shall waive the requirements of the  
25 acquisition of development rights by an applicant to the extent that  
26 the secretary finds that existing governmental land use restrictions  
27 are of a type necessary and sufficient to guarantee the maintenance  
28 of population levels and land use development over the lifetime  
29 of the facility which will insure the public health and safety  
30 requirements set pursuant to this section.

31 (d) A change in governmental land use restrictions in areas  
32 designated in subdivision (c) of this section by any government  
33 agency shall not be effective until approved by the commission.  
34 The approval shall certify that the change in land use restrictions  
35 is not in conflict with requirements provided for by this section.

36 (e) It is not the intent of the Legislature by the enactment of this  
37 section to take private property for public use without payment of  
38 just compensation in violation of the United States Constitution  
39 or the Constitution of California.

1 SEC. 194. Section 25529 of the Public Resources Code is  
2 amended to read:

3 25529. If a facility is proposed to be located in the coastal zone  
4 or any other area with recreational, scenic, or historic value, the  
5 commission shall require, as a condition of certification of any  
6 facility contained in the application, that an area be established for  
7 public use, as determined by the commission. Lands within the  
8 area shall be acquired and maintained by the applicant and shall  
9 be available for public access and use, subject to restrictions  
10 required for security and public safety. The applicant may dedicate  
11 the public use zone to any local agency agreeing to operate or  
12 maintain it for the benefit of the public. If no local agency agrees  
13 to operate or maintain the public use zone for the benefit of the  
14 public, the applicant may dedicate the zone to the state. The  
15 commission shall also require that any facility to be located along  
16 the coast or shoreline of any major body of water be set back from  
17 the shoreline to permit reasonable public use and to protect scenic  
18 and aesthetic values.

19 SEC. 195. Section 25530 of the Public Resources Code is  
20 amended to read:

21 25530. (a) The commission may order a reconsideration of all  
22 or part of a decision or order on petition of any party.

23 (b) A petition for reconsideration shall be filed within 30 days  
24 after adoption by the commission of a decision or order. The  
25 commission shall not order a reconsideration more than 30 days  
26 after it has adopted a decision or order. The commission shall order  
27 or deny reconsideration on a petition within 30 days after the  
28 petition is filed.

29 (c) A decision or order may be reconsidered by the commission  
30 on the basis of all pertinent portions of the record together with  
31 any argument that the commission may permit, or the commission  
32 may hold a further hearing, after notice to all interested persons.  
33 A decision or order of the commission on reconsideration shall  
34 have the same force and effect as an original order or decision.

35 SEC. 196. Section 25531 of the Public Resources Code is  
36 amended to read:

37 25531. (a) The decisions of the commission on an application  
38 for certification of a site and related facility are subject to judicial  
39 review by the Supreme Court of California.

1 (b) New or additional evidence shall not be introduced upon  
2 review and the cause shall be heard on the record of the  
3 commission as certified to by the commission. The review shall  
4 not be extended further than to determine whether the commission  
5 has regularly pursued its authority, including a determination of  
6 whether the order or decision under review violates any right of  
7 the petitioner under the United States Constitution or the California  
8 Constitution. The findings and conclusions of the commission on  
9 questions of fact are final and are not subject to review, except as  
10 provided in this article. These questions of fact shall include  
11 ultimate facts and the findings and conclusions of the commission.

12 (c) Subject to the right of judicial review of decisions of the  
13 secretary, no court in this state has jurisdiction to hear or determine  
14 any case or controversy concerning any matter which was, or could  
15 have been, determined in a proceeding before the commission, or  
16 to stop or delay the construction or operation of a powerplant  
17 except to enforce compliance with the provisions of a decision of  
18 the commission.

19 (d) Notwithstanding Section 1250.370 of the Code of Civil  
20 Procedure:

21 (1) If the commission requires, pursuant to subdivision (a) of  
22 Section 25528, as a condition of certification of any site and related  
23 facility, that the applicant acquire development rights, that  
24 requirement conclusively establishes the matters referred to in  
25 Sections 1240.030 and 1240.220 of the Code of Civil Procedure  
26 in any eminent domain proceeding brought by the applicant to  
27 acquire the development rights.

28 (2) If the commission certifies any site and related facility, that  
29 certification conclusively establishes the matters referred to in  
30 Sections 1240.030 and 1240.220 of the Code of Civil Procedure  
31 in any eminent domain proceeding brought to acquire the site and  
32 related facility.

33 (e) A decision of the commission pursuant to Section 25522 or  
34 25523 shall not be found to mandate a specific supply plan for any  
35 utility as prohibited by Section 25323.

36 SEC. 197. Section 25534 of the Public Resources Code is  
37 amended to read:

38 25534. (a) The commission may, after one or more hearings,  
39 amend the conditions of, or revoke the certification for, any facility  
40 for any of the following reasons:

1 (1) Any material false statement set forth in the application,  
2 presented in proceedings of the commission, or included in  
3 supplemental documentation provided by the applicant.

4 (2) Any significant failure to comply with the terms or  
5 conditions of approval of the application, as specified by the  
6 secretary in its written decision.

7 (3) A violation of this division or any regulation or order issued  
8 by the commission under this division.

9 (b) The commission may also administratively impose a civil  
10 penalty for a violation of paragraph (1) or (2) of subdivision (a).  
11 Any civil penalty shall be imposed in accordance with Section  
12 25534.1 and may not exceed seventy-five thousand dollars  
13 (\$75,000) per violation, except that the civil penalty may be  
14 increased by an amount not to exceed one thousand five hundred  
15 dollars (\$1,500) per day for each day in which the violation occurs  
16 or persists, but the total of the per day penalties may not exceed  
17 fifty thousand dollars (\$50,000).

18 SEC. 198. Section 25534.1 of the Public Resources Code is  
19 amended to read:

20 25534.1. (a) The department may issue a complaint to any  
21 person or entity on whom an administrative civil penalty may be  
22 imposed pursuant to Section 25534. The complaint shall allege  
23 the act or failure to act for which the civil penalty is proposed, the  
24 provision of law authorizing civil liability, and the proposed civil  
25 penalty.

26 (b) The complaint shall be served by personal notice or certified  
27 mail, and shall inform the party so served that a hearing will be  
28 conducted within 60 days after the party has been served. The  
29 hearing shall be before the commission. The complainant may  
30 waive the right to a hearing, in which case the commission shall  
31 not conduct a hearing.

32 (c) After any hearing, the commission may adopt, with or  
33 without revision, the proposed decision and order of the  
34 department.

35 (d) Orders setting an administrative civil penalty shall become  
36 effective and final upon issuance thereof, and any payment shall  
37 be made within 30 days. Copies of these orders shall be served by  
38 personal service or by registered mail upon the party served with  
39 the complaint and upon other persons who appeared at the hearing  
40 and requested a copy.

1 (e) In determining the amount of the administrative civil penalty,  
2 the commission shall take into consideration the nature,  
3 circumstance, extent, and gravity of the violation or violations,  
4 whether the violation is susceptible to removal or resolution, the  
5 cost to the state in pursuing the enforcement action, and with  
6 respect to the violator, the ability to pay, the effect on ability to  
7 continue in business, any voluntary removal or resolution efforts  
8 undertaken, any prior history of violations, the degree of  
9 culpability, economic savings, if any, resulting from the violation,  
10 and such other matters as justice may require.

11 SEC. 199. Section 25538 of the Public Resources Code is  
12 amended to read:

13 25538. Upon receiving the department's request for review  
14 under subdivision (f) of Section 25519, the local agency may  
15 request a fee from the department to reimburse the local agency  
16 for the actual and added costs of this review by the local agency.  
17 The department shall reimburse the local agency for the added  
18 costs that shall be actually incurred by the local agency in  
19 complying with the department's request. The local agency may  
20 also request reimbursement for permit fees that the local agency  
21 would receive but for the operation of Section 25500. However,  
22 these fees may only be requested in accordance with actual services  
23 performed by the local agency. The department shall either request  
24 a fee from the person proposing the project or devote a special  
25 fund in its budget, for the reimbursement of these costs incurred  
26 by local agencies.

27 SEC. 200. Section 25539 of the Public Resources Code is  
28 amended to read:

29 25539. In reviewing applications for certification of  
30 modifications of existing facilities, the commission shall adopt  
31 rules and regulations as necessary to ensure that relevant duties  
32 pursuant to this division are carried out.

33 SEC. 201. Section 25540 of the Public Resources Code is  
34 amended to read:

35 25540. If a person proposes to construct a geothermal  
36 powerplant and related facility or facilities on a site, the  
37 commission shall issue its final decision on the application, as  
38 specified in Section 25523, within nine months from the date of  
39 the filing of the application for certification, or at such later time

1 as is mutually agreed to by the commission and the applicant or  
2 person submitting the notice or application.

3 SEC. 202. Section 25540.1 of the Public Resources Code is  
4 amended to read:

5 25540.1. The department shall determine, within 30 days after  
6 the receipt of an application for a geothermal powerplant, whether  
7 the application is complete. If the application is determined not to  
8 be complete, the department's determination shall specify, in  
9 writing, those parts of the application that are incomplete and shall  
10 indicate the manner in which it can be made complete. Within 30  
11 days after receipt of the applicant's filing with the department the  
12 additional information requested by the department to make the  
13 application complete, the department shall determine whether the  
14 subsequent filing is sufficient to complete the application. An  
15 application shall be deemed filed for purposes of Section 25540  
16 on the date the department determines the application is completed  
17 if the commission has adopted regulations specifying the  
18 informational requirements for a complete application, but if the  
19 commission has not adopted regulations, the application shall be  
20 deemed filed on the last date the department receives any additional  
21 data that completes the application.

22 SEC. 203. Section 25540.2 of the Public Resources Code is  
23 amended to read:

24 25540.2. Upon receipt of an application for certification of a  
25 geothermal powerplant and related facilities, the department shall  
26 transmit a copy of the application to every state and local agency  
27 having jurisdiction over land use in the area involved.

28 SEC. 204. Section 25540.3 of the Public Resources Code is  
29 amended to read:

30 25540.3. (a) An applicant for a geothermal powerplant may  
31 propose a site to be approved that will accommodate a potential  
32 maximum electric generating capacity in excess of the capacity  
33 being proposed for initial construction. In addition to the  
34 information concerning the initial powerplant and related facilities  
35 proposed for construction required pursuant to Section 25520, the  
36 application shall include all of the following, to the extent known:

37 (1) The number, type, and energy source of electric generating  
38 units that the site is proposed ultimately to accommodate and the  
39 maximum generating capacity for each unit.

40 (2) The projected installation schedule for each unit.

1 (3) The impact of the site, when fully developed, on the  
2 environment and public health and safety.

3 (4) The amount and sources of cooling water needed at the fully  
4 developed site.

5 (5) The general location and design of auxiliary facilities  
6 planned for each stage of development, including, but not limited  
7 to pipelines, transmission lines, waste storage and disposal  
8 facilities, switchyards, and cooling ponds, lakes, or towers.

9 (6) Other information relating to the design, operation, and siting  
10 of the facility that the commission may by regulation require.

11 (b) (1) If an application is filed pursuant to subdivision (a) that  
12 proposes a site to be approved that will accommodate a potential  
13 maximum electric generating capacity in excess of the capacity  
14 being proposed for initial construction, the commission may, in  
15 its decision pursuant to subdivision (a), either certify only the  
16 initial facility or facilities proposed for initial construction or may  
17 certify the initial facility or facilities and find the site acceptable  
18 for additional generating capacity of the type tentatively proposed.  
19 The maximum allowable amount and type of the additional  
20 capacity shall be determined by the commission.

21 (2) If the decision includes a finding that a particular site is  
22 suitable to accommodate a particular additional generating capacity,  
23 the site shall be designated a potential multiple facility site. The  
24 commission may, in determining the acceptability of a potential  
25 multiple facility site, specify conditions or criteria necessary to  
26 ensure that future additional facilities will not exceed the  
27 limitations of the site.

28 SEC. 205. Section 25540.4 of the Public Resources Code is  
29 repealed.

30 SEC. 206. Section 25540.6 of the Public Resources Code is  
31 repealed.

32 SEC. 207. Section 25541 of the Public Resources Code is  
33 amended to read:

34 25541. The commission may exempt from this chapter  
35 powerplants with a generating capacity of up to 100 megawatts  
36 and modifications to existing generating facilities that do not add  
37 capacity in excess of 100 megawatts, if the commission finds that  
38 no substantial adverse impact on the environment or energy  
39 resources will result from the construction or operation of the  
40 proposed facility or from the modifications.

1 SEC. 208. Section 25541.1 of the Public Resources Code is  
2 amended to read:

3 25541.1. It is the intent of the Legislature to encourage the  
4 development of powerplants using resource recovery  
5 (waste-to-energy) technology. Previously enacted incentives for  
6 the production of electrical energy from nonfossil fuels in  
7 commercially scaled projects have failed to produce the desired  
8 results. At the same time, the state faces a growing problem in the  
9 environmentally safe disposal of its solid waste. The creation of  
10 electricity by a powerplant using resource recovery technology  
11 addresses both problems by doing all of the following:

- 12 (a) Generating electricity from a nonfossil fuel of an ample,  
13 growing supply.
- 14 (b) Conserving landfill space, thus reducing waste disposal  
15 costs.
- 16 (c) Avoiding the health hazards of burying garbage.

17 Furthermore, development of resource recovery facilities creates  
18 new construction jobs, as well as ongoing operating jobs, in the  
19 communities in which they are located.

20 SEC. 209. Section 25541.5 of the Public Resources Code is  
21 amended to read:

22 25541.5. (a) On or before January 1, 2001, the Secretary of  
23 the Natural Resources Agency shall review the regulatory program  
24 conducted pursuant to this chapter that was certified pursuant to  
25 subdivision (j) of Section 15251 of Title 14 of the California Code  
26 of Regulations, to determine whether the regulatory program meets  
27 the criteria specified in Section 21080.5. If the Secretary of the  
28 Natural Resources Agency determines that the regulatory program  
29 meets those criteria, he or she shall continue the certification of  
30 the regulatory program.

31 (b) If the Secretary of the Natural Resources Agency continues  
32 the certification of the regulatory program, the commission shall  
33 amend the regulatory program from time to time, as necessary to  
34 permit the Secretary of the Natural Resources Agency to continue  
35 to certify the program.

36 (c) This section does not invalidate the certification of the  
37 regulatory program, as it existed on January 1, 2000, pending the  
38 review required by subdivision (a).

39 SEC. 211. Section 25543 of the Public Resources Code is  
40 amended to read:

1 25543. (a) It is the intent of the Legislature to improve the  
2 process of siting and licensing new electric powerplants to ensure  
3 that these facilities can be sited in a timely manner, while protecting  
4 environmental quality and public participation in the siting process.

5 (b) The department shall prepare, and submit to the Governor  
6 and the Legislature on or before March 31, 2000, a report that  
7 identifies administrative and statutory measures that, preserving  
8 environmental protections and public participation, would improve  
9 the commission's siting and licensing process for powerplants of  
10 50 megawatts and larger. The report shall include, but is not limited  
11 to, all of the following:

12 (1) An examination of potential process efficiencies associated  
13 with required hearings, site visits, and documents.

14 (2) A review of the impacts on both process efficiency and  
15 public participation of restrictions on communications between  
16 applicants, the public, and staff or decisionmakers.

17 (3) An assessment of means for improving coordination with  
18 the licensing activities of local jurisdictions and participation by  
19 other state agencies.

20 (4) An assessment of organizational structure issues including  
21 the adequacy of the amounts and organization of current technical  
22 and legal resources.

23 (5) Recommendations for administrative and statutory measures  
24 to improve the siting and licensing process.

25 (c) The commission may immediately implement any  
26 administrative recommendations. Regulations, as identified in  
27 paragraph (5), adopted within 180 days of the effective date of this  
28 section may be adopted as emergency regulations in accordance  
29 with Chapter 3.5 (commencing with Section 11340) of the  
30 Government Code. For purposes of that chapter, including Section  
31 11349.6 of the Government Code, the adoption of the regulations  
32 shall be considered by the Office of Administrative Law to be  
33 necessary for the immediate preservation of the public peace,  
34 health, safety, and general welfare.

35 SEC. 212. Section 25544 is added to the Public Resources  
36 Code, to read:

37 25544. (a) After one or more public hearings, the department  
38 may recommend, and the commission may designate, preferred  
39 areas for renewable energy generation development based on  
40 environmental sensitivity, the presence of infrastructure, and other

1 relevant considerations. Designation of an area under this section  
2 shall be through a planning study, which will not have a legally  
3 binding effect on later activities, but will serve as guidance to  
4 developers and regulatory agencies in the selection of suitable sites  
5 for the development of renewable energy generation projects.

6 (b) Designation of an area under this section shall serve to  
7 identify a feasible region where one or more future renewable  
8 energy generation facilities can be built that are consistent with  
9 the state's needs and objectives as set forth in Article 16  
10 (commencing with Section 399.11) of Chapter 2.3 of Part 1 of  
11 Division 1 of the Public Utilities Code.

12 (c) The department shall rank the renewable energy designation  
13 areas based on the following criteria:

14 (1) The least impact at the site when fully developed on the  
15 environment and public health and safety.

16 (2) Total capacity of generation projects that are in the  
17 Independent System Operator generation queue for each of the  
18 remote energy generation parks.

19 (3) Fuel diversity.

20 (4) Distance to the nearest possible Independent System  
21 Operator transmission bulk facility.

22 (5) Potential viable transmission route.

23 (6) Order of magnitude of transmission cost per megawatt for  
24 the designated remote energy generation parks to deliver renewable  
25 energy to the load centers.

26 (7) Realistic commercial operating dates for location-constrained  
27 projects and the transmission interconnection facilities.

28 (8) Potential impact on the transmission access charge.

29 (9) Potential operational, congestion, and reliability benefits of  
30 the facility.

31 (10) Stranded cost risk and potential impact.

32 (11) Alternative means of transmission access from the  
33 renewable energy designation area to the electrical transmission  
34 grid operated by the Independent System Operator.

35 (d) The department shall give priority to, and expedite the review  
36 of, applications for generating facilities that use a renewable  
37 resource as their primary fuel or power source and transmission  
38 lines proposed to access new or anticipated generating facilities.

39 (e)

1 (e) For the purposes of this section, “renewable” has the same  
2 meaning as set forth in Section 25741.

3 SEC. 213. Section 25545 is added to the Public Resources  
4 Code, to read:

5 25545. (a) Notwithstanding subdivision (a) of Section 25522,  
6 the department shall establish a process to issue the commission’s  
7 final decision within nine months after the filing of an application  
8 for any of the following:

9 (1) An electric transmission line that provides access to electric  
10 generation from renewable resources and would be constructed  
11 within a transmission corridor zone designated under Section  
12 25331.

13 (2) A renewable energy powerplant that is constructed within  
14 an area designated by the commission as a preferred area for  
15 renewable energy development in the Desert Renewable Energy  
16 Conservation Plan prepared pursuant to the Governor’s Executive  
17 Order S-14-08.

18 (3) A generating facility that uses a renewable resource as its  
19 primary fuel or power source and would be constructed within an  
20 area designated by the Renewable Energy Transmission Initiative  
21 as a renewable energy designation zone.

22 (b) For purposes of this section, “filing” has the same meaning  
23 as in Section 25522.

24 (c) For an application filed in a process established under this  
25 section, all local, regional, and state agencies that would have  
26 jurisdiction over the proposed electric transmission line or  
27 powerplant and related facilities, but for the exclusive jurisdiction  
28 of the secretary, shall provide their final comments, determinations,  
29 or opinions within 100 days after the filing of the application. The  
30 regional water quality control boards, as established pursuant to  
31 Chapter 4 (commencing with Section 13200) of Division 7 of the  
32 Water Code, shall retain jurisdiction over any applicable water  
33 quality standard that is incorporated into a final certification issued  
34 pursuant to this chapter.

35 (d) To implement this section, the commission may adopt  
36 emergency regulations in accordance with Chapter 3.5  
37 (commencing with Section 11340) of Part 2 of Division 3 of Title  
38 2 of the Government Code. For purposes of that chapter, including  
39 without limitation, Section 11349.6 of the Government Code, the  
40 adoption of the regulations shall be considered by the Office of

1 Administrative Law to be necessary for the immediate preservation  
2 of the public peace, health, safety, and general welfare.

3 SEC. 214. Section 25601 of the Public Resources Code is  
4 amended to read:

5 25601. The department shall develop and coordinate a program  
6 of research and development in energy supply, consumption, and  
7 conservation and the technology of siting facilities and shall give  
8 priority to those forms of research and development that are of  
9 particular importance to the state, including, but not limited to, all  
10 of the following:

11 (a) Methods of energy conservation specified in Chapter 5  
12 (commencing with Section 25400).

13 (b) Increased energy use efficiencies of existing thermal electric  
14 and hydroelectric powerplants and increased energy efficiencies  
15 in designs of thermal electric and hydroelectric powerplants.

16 (c) Expansion and accelerated development of alternative  
17 sources of energy, including geothermal and solar resources,  
18 including, but not limited to, participation in large-scale  
19 demonstrations of alternative energy systems sited in California  
20 in cooperation with federal agencies, regional compacts, other  
21 state governments, and other participants. For purposes of this  
22 subdivision, "participation" shall be defined as any of the  
23 following: (1) direct interest in a project, (2) research and  
24 development to insure acceptable resolution of environment and  
25 other impacts of alternative energy systems, (3) research and  
26 development to improve siting and permitting methodology for  
27 alternative energy systems, (4) experiments utilizing the alternative  
28 energy systems, and (5) research and development of appropriate  
29 methods to insure the widespread utilization of economically useful  
30 alternative energy systems. Large-scale demonstrations of  
31 alternative energy systems are exemplified by the 100KW<sub>e</sub> to  
32 100MW<sub>e</sub> range demonstrations of solar, wind, and geothermal  
33 systems contemplated by federal agencies, regional compacts,  
34 other state governments, and other participants.

35 (d) Improved methods of construction, design, and operation  
36 of facilities to protect against seismic hazards.

37 (e) Improved methods of energy-demand forecasting.

38 (f) To accomplish the purposes of subdivision (c), an amount  
39 not more than one-half of the total state funds appropriated for the  
40 solar energy research and development program as proposed in

1 the budget shall be allocated for large-scale demonstration of  
2 alternative energy systems.

3 SEC. 215. Section 25602 of the Public Resources Code is  
4 amended to read:

5 25602. The department shall carry out technical assessment  
6 studies on all forms of energy and energy-related problems, in  
7 order to influence federal research and development priorities and  
8 to be informed on future energy options and their impacts,  
9 including, in addition to those problems specified in Section 25601,  
10 but not limited to, the following:

11 (a) Advanced nuclear powerplant concepts, fusion, and fuel  
12 cells.

13 (b) Total energy concepts.

14 (c) New technology related to coastal and offshore siting of  
15 facilities.

16 (d) Expanded use of wastewater as cooling water and other  
17 advances in powerplant cooling.

18 (e) Improved methods of power transmission to permit interstate  
19 and interregional transfer and exchange of bulk electric power.

20 (f) Measures to reduce wasteful and inefficient uses of energy.

21 (g) Shifts in transportation modes and changes in transportation  
22 technology in relation to implications for energy consumption.

23 (h) Methods of recycling, extraction, processing, fabricating,  
24 handling, or disposing of materials, especially materials which  
25 require large commitments of energy.

26 (i) Expanded recycling of materials and its effect on energy  
27 consumption.

28 (j) Implications of government subsidies and taxation and  
29 ratesetting policies.

30 (k) Utilization of waste heat.

31 (l) Use of hydrogen as an energy form.

32 (m) Use of agricultural products, municipal wastes, and organic  
33 refuse as an energy source.

34 These assessments may also be conducted in order to determine  
35 which energy systems among competing technologies are most  
36 compatible with standards established pursuant to this division.

37 SEC. 216. Section 25603 of the Public Resources Code is  
38 amended to read:

39 25603. For research purposes, the department shall, in  
40 cooperation with other state agencies, participate in the design,

1 construction, and operation of energy-conserving buildings using  
2 data developed pursuant to Section 25401, in order to demonstrate  
3 the economic and technical feasibility of the designs.

4 ~~SEC. 271.~~

5 *SEC. 217.* Section 25603.5 of the Public Resources Code is  
6 repealed.

7 *SEC. 218.* Section 25608 of the Public Resources Code is  
8 amended to read:

9 25608. The department shall confer with officials of federal  
10 agencies, including the National Aeronautics and Space  
11 Administration, the National Institute of Standards and Technology,  
12 the Department of Energy, and the Department of Housing and  
13 Urban Development, to coordinate the adoption of regulations  
14 pursuant to Sections 25603 and 25605.

15 *SEC. 219.* Section 25610 of the Public Resources Code is  
16 amended to read:

17 25610. For purposes of carrying out the provisions of this  
18 chapter, the department may contract with any person for materials  
19 and services that cannot be performed by its staff or other state  
20 agencies, and may apply for federal grants or any other funding.

21 *SEC. 220.* Section 25616 of the Public Resources Code is  
22 amended to read:

23 25616. (a) It is the intent of the Legislature to encourage local  
24 agencies to expeditiously review permit applications to site energy  
25 projects, and to encourage energy project developers to consider  
26 all cost-effective and environmentally superior alternatives that  
27 achieve their project objectives.

28 (b) Subject to the availability of funds appropriated therefor,  
29 the department shall provide technical assistance and grants-in-aid  
30 to assist local agencies to do either or both of the following:

31 (1) Site energy production or transmission projects that are not  
32 otherwise subject to Chapter 6 (commencing with Section 25500).

33 (2) Integrate into their planning processes, and incorporate into  
34 their general plans, methods to achieve cost-effective energy  
35 efficiency.

36 (c) The department shall provide assistance at the request of  
37 local agencies.

38 (d) As used in this section, an energy project is any project  
39 designed to produce, convert, or transmit energy as one of its  
40 primary functions.

1 SEC. 221. Section 25617 of the Public Resources Code is  
2 amended to read:

3 25617. (a) It is the intent of the Legislature to preserve  
4 diversity of energy resources, including diversity of resources used  
5 in electric generation facilities, industrial and commercial  
6 applications, and transportation.

7 (b) The department shall, within the limits of available funds,  
8 provide technical assistance and support for the development of  
9 petroleum diesel fuels that are as clean or cleaner than alternative  
10 clean fuels and clean diesel engines. That technical assistance and  
11 support may include the creation of research, development, and  
12 demonstration programs.

13 SEC. 222. Section 25618 of the Public Resources Code is  
14 amended to read:

15 25618. (a) The department shall facilitate development and  
16 commercialization of ultra low- and zero-emission electric vehicles  
17 and advanced battery technologies, as well as development of an  
18 infrastructure to support maintenance and fueling of those vehicles  
19 in California. Facilitating commercialization of ultra low- and  
20 zero-emission electric vehicles in California shall include, but not  
21 be limited to, the following:

22 (1) The department may, in cooperation with county, regional,  
23 and city governments, the state's public and private utilities, and  
24 the private business sector, develop plans for accelerating the  
25 introduction and use of ultra low- and zero-emission electric  
26 vehicles throughout California's air quality nonattainment areas,  
27 and for accelerating the development and implementation of the  
28 necessary infrastructure to support the planned use of those vehicles  
29 in California. These plans shall be consistent with, but not limited  
30 to, the criteria for similar efforts contained in federal loan, grant,  
31 or matching fund projects.

32 (2) In coordination with other state agencies, the department  
33 shall seek to maximize the state's use of federal programs, loans,  
34 and matching funds available to states for ultra low- and  
35 zero-emission electric vehicle development and demonstration  
36 programs, and infrastructure development projects.

37 (b) Priority for implementing demonstration projects under this  
38 section shall be directed toward those areas of the state currently  
39 in a nonattainment status with federal and state air quality  
40 regulations.

1     ~~SEC. 223. Section 25620 of the Public Resources Code is~~  
2     ~~amended to read:~~

3     ~~25620. The Legislature hereby finds and declares all of the~~  
4     ~~following:~~

5     ~~(a) It is in the best interests of the people of this state that the~~  
6     ~~quality of life of its citizens be improved by providing~~  
7     ~~environmentally sound, safe, reliable, and affordable energy~~  
8     ~~services and products.~~

9     ~~(b) To improve the quality of life of this state's citizens, it is~~  
10    ~~proper and appropriate for the state to undertake public interest~~  
11    ~~energy research, development, and demonstration projects that are~~  
12    ~~not adequately provided for by competitive and regulated energy~~  
13    ~~markets.~~

14    ~~(c) Public interest energy research, demonstration, and~~  
15    ~~development projects should advance energy science or~~  
16    ~~technologies of value to California citizens and should be consistent~~  
17    ~~with the policies of this chapter.~~

18    ~~(d) It is in the best interest of the people of California for the~~  
19    ~~department and the commission to positively contribute to the~~  
20    ~~overall economic climate of the state within the roles and~~  
21    ~~responsibilities of the department and the commission as defined~~  
22    ~~by statute, regulation, and other official government authority,~~  
23    ~~including, but not limited to, providing economic benefits to~~  
24    ~~California-based entities.~~

25    ~~SEC. 224. Section 25620.1 of the Public Resources Code is~~  
26    ~~amended to read:~~

27    ~~25620.1. (a) The department shall develop, implement, and~~  
28    ~~administer the Public Interest Research, Development, and~~  
29    ~~Demonstration Program that is hereby created. The program shall~~  
30    ~~include a full range of research, development, and demonstration~~  
31    ~~activities that, as determined by the department, are not adequately~~  
32    ~~provided for by competitive and regulated markets. The department~~  
33    ~~shall administer the program consistent with the policies of this~~  
34    ~~chapter.~~

35    ~~(b) The general goal of the program is to develop, and help bring~~  
36    ~~to market, energy technologies that provide increased~~  
37    ~~environmental benefits, greater system reliability, and lower system~~  
38    ~~costs, and that provide tangible benefits to electric utility customers~~  
39    ~~through the following investments:~~

- 1     ~~(1) Advanced transportation technologies that reduce air~~  
2 ~~pollution and greenhouse gas emissions beyond applicable~~  
3 ~~standards, and that benefit electricity and natural gas ratepayers.~~  
4     ~~(2) Increased energy efficiency in buildings, appliances, lighting,~~  
5 ~~and other applications beyond applicable standards, and that benefit~~  
6 ~~electric utility customers.~~  
7     ~~(3) Advanced electricity generation technologies that exceed~~  
8 ~~applicable standards to increase reductions in greenhouse gas~~  
9 ~~emissions from electricity generation, and that benefit electric~~  
10 ~~utility customers.~~  
11     ~~(4) Advanced electricity technologies that reduce or eliminate~~  
12 ~~consumption of water or other finite resources, increase use of~~  
13 ~~renewable energy resources, or improve transmission or distribution~~  
14 ~~of electricity generated from renewable energy resources.~~  
15     ~~(e) To achieve the goals established in subdivision (b), the~~  
16 ~~department shall adopt a portfolio approach for the program that~~  
17 ~~does all of the following:~~  
18         ~~(1) Effectively balances the risks, benefits, and time horizons~~  
19 ~~for various activities and investments that will provide tangible~~  
20 ~~energy or environmental benefits for California electricity~~  
21 ~~customers.~~  
22         ~~(2) Emphasizes innovative energy supply and end use~~  
23 ~~technologies, focusing on their reliability, affordability, and~~  
24 ~~environmental attributes.~~  
25         ~~(3) Includes projects that have the potential to enhance~~  
26 ~~transmission and distribution capabilities.~~  
27         ~~(4) Includes projects that have the potential to enhance the~~  
28 ~~reliability, peaking power, and storage capabilities of renewable~~  
29 ~~energy.~~  
30         ~~(5) Demonstrates a balance of benefits to all sectors that~~  
31 ~~contribute to the funding under Section 399.8 of the Public Utilities~~  
32 ~~Code.~~  
33         ~~(6) Addresses key technical and scientific barriers.~~  
34         ~~(7) Demonstrates a balance between short-term, mid-term, and~~  
35 ~~long-term potential.~~  
36         ~~(8) Ensures that prior, current, and future research not be~~  
37 ~~unnecessarily duplicated.~~  
38         ~~(9) Provides for the future market utilization of projects funded~~  
39 ~~through the program.~~

1 ~~(10) Ensures an open project selection process and encourages~~  
 2 ~~the awarding of research funding for a diverse type of research as~~  
 3 ~~well as a diverse award recipient base and equally considers~~  
 4 ~~research proposals from the public and private sectors.~~

5 ~~(11) Coordinates with other related research programs.~~

6 ~~(d) The term “award,” as used in this chapter, may include, but~~  
 7 ~~is not limited to, contracts, grants, interagency agreements, loans,~~  
 8 ~~and other financial agreements designed to fund public interest~~  
 9 ~~research, demonstration, and development projects or programs.~~

10 ~~SEC. 225. Section 25620.2 of the Public Resources Code is~~  
 11 ~~amended to read:~~

12 ~~25620.2. (a) To ensure the efficient implementation and~~  
 13 ~~administration of the Public Interest Research, Development, and~~  
 14 ~~Demonstration Program, the department shall do both of the~~  
 15 ~~following:~~

16 ~~(1) Develop procedures for the solicitation of award applications~~  
 17 ~~for project or program funding, and to ensure efficient program~~  
 18 ~~management.~~

19 ~~(2) Evaluate and select programs and projects, based on merit,~~  
 20 ~~that will be funded under the program.~~

21 ~~(b) The department shall adopt regulations to implement the~~  
 22 ~~program, in accordance with the following procedures:~~

23 ~~(1) Prepare a preliminary text of the proposed regulation and~~  
 24 ~~provide a copy of the preliminary text to any person requesting a~~  
 25 ~~copy.~~

26 ~~(2) Provide public notice of the proposed regulation to any~~  
 27 ~~person who has requested notice of the regulations prepared by~~  
 28 ~~the department. The notice shall contain all of the following:~~

29 ~~(A) A clear overview explaining the proposed regulation.~~

30 ~~(B) Instructions on how to obtain a copy of the proposed~~  
 31 ~~regulations.~~

32 ~~(C) A statement that if a public hearing is not scheduled for the~~  
 33 ~~purpose of reviewing a proposed regulation, any person may~~  
 34 ~~request, not later than 15 days prior to the close of the written~~  
 35 ~~comment period, a public hearing conducted in accordance with~~  
 36 ~~department procedures.~~

37 ~~(3) Accept written public comments for 30 calendar days after~~  
 38 ~~providing the notice required in paragraph (2).~~

39 ~~(4) Certify that all written comments were read and considered~~  
 40 ~~by the department.~~

1 ~~(5) Place all written comments in a record that includes copies~~  
2 ~~of any written factual support used in developing the proposed~~  
3 ~~regulation, including written reports and copies of any transcripts~~  
4 ~~or minutes in connection with any public hearings on the adoption~~  
5 ~~of the regulation. The record shall be open to public inspection~~  
6 ~~and available to the courts.~~

7 ~~(6) Provide public notice of any substantial revision of the~~  
8 ~~proposed regulation at least 15 days prior to the expiration of the~~  
9 ~~deadline for public comments and comment period using the~~  
10 ~~procedures provided in paragraph (2).~~

11 ~~(7) Conduct public hearings, if a hearing is requested by an~~  
12 ~~interested party, that shall be conducted in accordance with~~  
13 ~~department procedures.~~

14 ~~(8) Adopt any proposed regulation at a regularly scheduled and~~  
15 ~~noticed meeting of the department. The regulation shall become~~  
16 ~~effective immediately unless otherwise provided by the department.~~

17 ~~(9) Publish any adopted regulation in a manner that makes copies~~  
18 ~~of the regulation easily available to the public. Any adopted~~  
19 ~~regulation shall also be made available on the Internet. The~~  
20 ~~department shall transmit a copy of an adopted regulation to the~~  
21 ~~Office of Administrative Law for publication, or, if the department~~  
22 ~~determines that printing the regulation is impractical, an appropriate~~  
23 ~~reference as to where a copy of the regulation may be obtained.~~

24 ~~(10) Notwithstanding any other provision of law, this~~  
25 ~~subdivision provides an interim exception from the requirements~~  
26 ~~of Chapter 3.5 (commencing with Section 11340) of Part 1 of~~  
27 ~~Division 3 of Title 2 of the Government Code for regulations~~  
28 ~~required to implement Sections 25620.1 and this Section that are~~  
29 ~~adopted under the procedures specified in this subdivision.~~

30 ~~(11) This subdivision shall become inoperative on January 1,~~  
31 ~~2012, unless a later enacted statute deletes or extends that date.~~  
32 ~~However, after January 1, 2012, the department is not required to~~  
33 ~~repeat any procedural step in adopting a regulation that has been~~  
34 ~~completed before January 1, 2012, using the procedures specified~~  
35 ~~in this subdivision.~~

36 ~~SEC. 226. Section 25620.3 of the Public Resources Code is~~  
37 ~~amended to read:~~

38 ~~25620.3. (a) The department may, consistent with the~~  
39 ~~requirements of this chapter, provide awards to any individual or~~

1 entity for planning, implementation, and administration of projects  
2 or programs selected pursuant to Section 25620.5.

3 ~~(b) The department may provide an award to a project or~~  
4 ~~program that includes a group of related projects, or to a party who~~  
5 ~~aggregates projects that directly benefit from the award.~~

6 ~~(c) The department may establish multiparty agreements. In a~~  
7 ~~multiparty agreement, the department may be a signatory to a~~  
8 ~~common agreement among two or more parties. These agreements~~  
9 ~~include, but are not limited to, cofunding, leveraged research,~~  
10 ~~collaborations, and membership arrangements. If the department~~  
11 ~~enters into these agreements, it shall be a party to these agreements~~  
12 ~~and may share in the roles, responsibilities, risks, investments, and~~  
13 ~~results.~~

14 ~~(d) The department may issue awards that include the ability to~~  
15 ~~make advance payments to prime contractors, to enable them to~~  
16 ~~make advance payments to a subcontractor that is a federal agency,~~  
17 ~~national laboratory, or state entity, on the condition that the~~  
18 ~~subcontract is binding and enforceable and includes specific~~  
19 ~~performance milestones.~~

20 ~~(e) The department may issue awards that include the ability to~~  
21 ~~assign tasks on a work authorization basis.~~

22 ~~(f) Prior to making any award pursuant to this chapter for a~~  
23 ~~research, development, or demonstration program or project, the~~  
24 ~~department shall identify the expected costs and any qualitative~~  
25 ~~or quantitative benefits of the proposed program or project.~~

26 ~~SEC. 227. Section 25620.4 of the Public Resources Code is~~  
27 ~~amended to read:~~

28 ~~25620.4. (a) To the extent that intellectual property is~~  
29 ~~developed under this chapter, an equitable share of rights in that~~  
30 ~~intellectual property or in the benefits derived from that intellectual~~  
31 ~~property shall accrue to the State of California.~~

32 ~~(b) The department may determine what share, if any, of the~~  
33 ~~intellectual property, or the benefits derived from the intellectual~~  
34 ~~property, shall accrue to the state. The commission may negotiate~~  
35 ~~sharing mechanisms for intellectual property or benefits with award~~  
36 ~~recipients.~~

37 ~~SEC. 228. Section 25620.5 of the Public Resources Code is~~  
38 ~~amended to read:~~

39 ~~25620.5. (a) The department may solicit applications for~~  
40 ~~awards using a sealed competitive bid, competitive negotiation~~

1 process, department-issued intradepartmental master agreement,  
2 the methods for selection of professional services firms set forth  
3 in Chapter 10 (commencing with Section 4525) of Division 5 of  
4 Title 1 of the Government Code, interagency agreement, single  
5 source, or sole source method. When scoring teams are convened  
6 to review and score proposals, the scoring teams may include  
7 persons not employed by the department, as long as employees of  
8 the state constitute no less than 50 percent of the membership of  
9 the scoring team. A person participating on a scoring team may  
10 not have any conflict of interest with respect to the proposal before  
11 the scoring team.

12 (b) A sealed bid method may be used when goods and services  
13 to be acquired can be described with sufficient specificity so that  
14 bids can be evaluated against specifications and criteria set forth  
15 in the solicitation for bids.

16 (c) The department may use a competitive negotiation process  
17 in any of the following circumstances:

18 (1) Whenever the desired award is not for a fixed price.

19 (2) Whenever project specifications cannot be drafted in  
20 sufficient detail so as to be applicable to a sealed competitive bid.

21 (3) Whenever there is a need to compare the different price,  
22 quality, and structural factors of the bids submitted.

23 (4) Whenever there is a need to afford bidders an opportunity  
24 to revise their proposals.

25 (5) Whenever oral or written discussions with bidders  
26 concerning the technical and price aspects of their proposals will  
27 provide better results to the state.

28 (6) Whenever the price of the award is not the determining  
29 factor.

30 (d) The department may establish interagency agreements.

31 (e) The department may provide awards on a single source basis  
32 by choosing from among two or more parties or by soliciting  
33 multiple applications from parties capable of supplying or  
34 providing similar goods or services. The cost to the state shall be  
35 reasonable and the department may only enter into a single source  
36 agreement with a particular party if the department determines that  
37 it is in the state's best interests.

38 (f) The department, in accordance with subdivision (g) and in  
39 consultation with the Department of General Services, may provide  
40 awards on a sole source basis when the cost to the state is

1 reasonable and the department makes any of the following  
2 determinations:

3 (1) The proposal was unsolicited and meets the evaluation  
4 criteria of this chapter.

5 (2) The expertise, service, or product is unique.

6 (3) A competitive solicitation would frustrate obtaining  
7 necessary information, goods, or services in a timely manner.

8 (4) The award funds the next phase of a multiphased proposal  
9 and the existing agreement is being satisfactorily performed.

10 (5) When it is determined by the department to be in the best  
11 interests of the state.

12 (g) The department may not use a sole source basis for an award  
13 pursuant to subdivision (f), unless both of the following conditions  
14 are met:

15 (1) The department, at least 60 days prior to taking an action  
16 pursuant to subdivision (f), notifies the Joint Legislative Budget  
17 Committee and the relevant policy committees in both houses of  
18 the Legislature, in writing, of its intent to take the proposed action.

19 (2) The Joint Legislative Budget Committee either approves or  
20 does not disapprove the proposed action within 60 days from the  
21 date of notification required by paragraph (1).

22 (h) The department shall give priority to California-based entities  
23 in making awards pursuant to this chapter.

24 (i) The provisions of this section are severable. If any provision  
25 of this section or its application is held to be invalid, that invalidity  
26 does not affect other provisions or applications that can be given  
27 effect without the invalid provision or application.

28 For purposes of this Section and Section 25620,  
29 “California-based entity” means either of the following:

30 A corporation or other business form organized for the  
31 transaction of business that has its headquarters in California and  
32 manufactures in California the product that qualifies for the  
33 incentive or award, or a corporation or other business form  
34 organized for the transaction of business that has an office for the  
35 transaction of business in California and substantially manufactures  
36 in California the product that qualifies for the incentive or award,  
37 or substantially develops within California the research that  
38 qualifies for the incentive or award, as determined by the agency  
39 issuing the incentive or award.

1     ~~SEC. 229. Section 25620.6 of the Public Resources Code is~~  
2     ~~amended to read:~~

3     ~~25620.6. The department, in consultation with the Department~~  
4     ~~of General Services, may purchase insurance coverage necessary~~  
5     ~~to implement an award. Funding for the purchase of insurance may~~  
6     ~~be made from money in the Public Interest Research, Development,~~  
7     ~~and Demonstration Fund created pursuant to Section 384 of the~~  
8     ~~Public Utilities Code.~~

9     ~~SEC. 230. Section 25620.7 of the Public Resources Code is~~  
10    ~~amended to read:~~

11    ~~25620.7. (a) The department may contract for, or through~~  
12    ~~interagency agreement obtain, technical, scientific, or~~  
13    ~~administrative services or expertise from one or more entities, to~~  
14    ~~support the program. Funding for this purpose shall be made from~~  
15    ~~money in the Public Interest Research, Development, and~~  
16    ~~Demonstration Fund.~~

17    ~~(b) The department may select the services or expertise~~  
18    ~~described in subdivision (a), pursuant to Section 25620.5. In the~~  
19    ~~event that contracts or interagency agreements have been made to~~  
20    ~~multiple entities and their subcontractors for similar purposes, the~~  
21    ~~department may select from among those entities the particular~~  
22    ~~expertise needed for a specified type of work. Selection of the~~  
23    ~~particular expertise may be based solely on a review of~~  
24    ~~qualifications, including the specific expertise required, availability~~  
25    ~~of the expertise, or access to a resource of special relevance to the~~  
26    ~~work, including, but not limited to, a database, model, technical~~  
27    ~~facility, or a collaborative or institutional affiliation that will~~  
28    ~~expedite the quality and performance of the work.~~

29    ~~SEC. 231. Section 25620.8 of the Public Resources Code is~~  
30    ~~amended to read:~~

31    ~~25620.8. The department shall prepare and submit to the~~  
32    ~~Legislature an annual report, not later than March 31 of each year,~~  
33    ~~on awards made pursuant to this chapter and progress toward~~  
34    ~~achieving the goals set forth in Section 25620.1. The report shall~~  
35    ~~include information on the names of award recipients, the amount~~  
36    ~~of awards, and the types of projects funded, an evaluation of the~~  
37    ~~success of funded projects, and recommendations for improvements~~  
38    ~~in the program. The report shall set forth the actual costs of~~  
39    ~~programs or projects funded by the department, the results~~  
40    ~~achieved, and how the actual costs and results compare to the~~

1 ~~expected costs and benefits. The department shall establish~~  
 2 ~~procedures for protecting confidential or proprietary information~~  
 3 ~~and shall consult with all interested parties in the preparation of~~  
 4 ~~the annual report.~~

5 ~~SEC. 232. Section 25620.11 of the Public Resources Code is~~  
 6 ~~amended to read:~~

7 ~~25620.11. (a) The department shall regularly convene an~~  
 8 ~~advisory board that shall make recommendations to guide the~~  
 9 ~~department's selection of programs and projects to be funded under~~  
 10 ~~this chapter. The advisory board shall include as appropriate, but~~  
 11 ~~not be limited to, representatives from the Public Utilities~~  
 12 ~~Commission, consumer organizations, environmental organizations,~~  
 13 ~~and electrical corporations subject to the funding requirements of~~  
 14 ~~Section 381 of the Public Utilities Code.~~

15 ~~(b) Three members of the Senate, appointed by the Senate~~  
 16 ~~President Pro Tempore, and three members of the Assembly,~~  
 17 ~~appointed by the Speaker of the Assembly, may meet with the~~  
 18 ~~advisory board and participate in its activities to the extent that~~  
 19 ~~this participation is not incompatible with their respective positions~~  
 20 ~~as Members of the Legislature.~~

21 ~~SEC. 233.~~

22 ~~SEC. 223. Section 25630 of the Public Resources Code is~~  
 23 ~~amended to read:~~

24 ~~25630. (a) The department shall establish a small business~~  
 25 ~~energy assistance low-interest revolving loan program to fund the~~  
 26 ~~purchase of equipment for alternative technology energy projects~~  
 27 ~~for California's small businesses.~~

28 ~~(b) Loan repayments, interest, and royalties shall be deposited~~  
 29 ~~in the Energy Technologies Research, Development, and~~  
 30 ~~Demonstration Account. The interest rate shall be based on surveys~~  
 31 ~~of existing financial markets and at rates not lower than the Pooled~~  
 32 ~~Money Investment Account.~~

33 ~~SEC. 234.~~

34 ~~SEC. 224. Section 25678 of the Public Resources Code is~~  
 35 ~~amended to read:~~

36 ~~25678. The department shall establish a grant program that~~  
 37 ~~provides a forty cent (\$0.40) per gallon production incentive for~~  
 38 ~~liquid fuels fermented in this state from biomass and~~  
 39 ~~biomass-derived resources produced in this state. Eligible liquid~~  
 40 ~~fuels include, but are not limited to, ethanol, methanol, and~~

1 vegetable oils. Eligible biomass resources include, but are not  
2 limited to, agricultural products and byproducts, forestry products  
3 and byproducts, and industrial wastes. The department shall adopt  
4 rules and regulations necessary to implement the program. Prior  
5 to determining an applicant eligible for participation in the  
6 production incentive program, the department shall find, among  
7 other things, that the production techniques employed will lead to  
8 a net increase in the amount of energy available for consumption.

9 ~~SEC. 235.~~

10 *SEC. 225.* Section 25679 of the Public Resources Code is  
11 amended to read:

12 25679. Applicants for a grant under this chapter shall submit  
13 an application on a form prescribed by the department, which is  
14 responsible for administration of the program.

15 ~~SEC. 236.~~

16 *SEC. 226.* Section 25696 of the Public Resources Code is  
17 amended to read:

18 25696. The department may assist California-based energy  
19 technology and energy conservation firms to export their  
20 technologies, products, and services to international markets.

21 The department may do all of the following:

22 (a) Conduct a technical assistance program to help California  
23 energy companies improve export opportunities and enhance  
24 foreign buyers' awareness of and access to energy technologies  
25 and services offered by California-based companies. Technical  
26 assistance activities may include, but are not limited to, an energy  
27 technology export information clearinghouse, a referral service,  
28 trade lead service consulting services for financing, market  
29 evaluation, and legal counseling, and information seminars.

30 (b) Perform research studies and solicit technical advice to  
31 identify international market opportunities.

32 (c) Assist California energy companies to evaluate project or  
33 site-specific energy needs of international markets.

34 (d) Assist California energy companies to identify and address  
35 international trade barriers restricting energy technology exports,  
36 including unfair trade practices and discriminatory trade laws.

37 (e) Develop promotional materials in conjunction with California  
38 energy companies to expand energy technology exports.

39 (f) Establish technical exchange programs to increase foreign  
40 buyers' awareness of suitable energy technology uses.

1 (g) Prepare equipment performance information to enhance  
 2 potential export opportunities.

3 (h) Coordinate activities with state, federal, and international  
 4 donor agencies to take advantage of trade promotion and financial  
 5 assistance efforts offered.

6 ~~SEC. 237.~~

7 *SEC. 227.* Section 25696.5 of the Public Resources Code is  
 8 amended to read:

9 25696.5. (a) Every California-based energy technology and  
 10 energy conservation firm awarded direct financial assistance  
 11 pursuant to Section 25696 shall reimburse the department for that  
 12 assistance, when both of the following conditions have been met:

13 (1) The assistance was substantial and essential for the  
 14 completion of a specific identifiable project.

15 (2) The resulting project is producing revenues.

16 (b) All moneys appropriated for purposes of this chapter and  
 17 all moneys received by the department as reimbursement under  
 18 this section shall be deposited in the Energy Resources Programs  
 19 Account and shall be available, when appropriated by the  
 20 Legislature, for the purposes of this chapter.

21 ~~SEC. 238.~~

22 *SEC. 228.* Section 25697 of the Public Resources Code is  
 23 amended to read:

24 25697. The department shall consult with the California State  
 25 World Trade Commission with respect to conducting overseas  
 26 trade missions, trade shows, and trade exhibits. Consultation may  
 27 include interagency agreements, cosponsorship, and memoranda  
 28 of understanding for joint overseas trade activities.

29 ~~SEC. 239.~~

30 *SEC. 229.* Section 25700 of the Public Resources Code is  
 31 amended to read:

32 25700. The department shall, in accordance with this chapter,  
 33 develop contingency plans to deal with possible shortages of  
 34 electrical energy or fuel supplies to protect public health, safety,  
 35 and welfare.

36 ~~SEC. 240.~~

37 *SEC. 230.* Section 25701 of the Public Resources Code is  
 38 amended to read:

39 25701. (a) Within six months after the effective date of this  
 40 division, each electric utility, gas utility, and fuel wholesaler or

1 manufacturer in the state shall prepare and submit to the department  
2 a proposed emergency load curtailment plan or emergency energy  
3 supply distribution plan setting forth proposals for identifying  
4 priority loads or users in the event of a sudden and serious shortage  
5 of fuels or interruption in the generation of electricity.

6 (b) The department shall encourage electric utilities to cooperate  
7 in joint preparation of an emergency load curtailment plan or  
8 emergency energy distribution plan. If this cooperative plan is  
9 developed between two or more electric utilities, the utilities may  
10 submit the joint plans to the department in place of individual plans  
11 required by subdivision (a) of this section.

12 (c) The department shall collect from all relevant governmental  
13 agencies, including, but not limited to, the Public Utilities  
14 Commission and the Office of Emergency Services, any existing  
15 contingency plans for dealing with sudden energy shortages or  
16 information related thereto.

17 ~~SEC. 241.~~

18 *SEC. 231.* Section 25702 of the Public Resources Code is  
19 amended to read:

20 25702. The department shall, after one or more public hearings,  
21 review the emergency load curtailment program plans or  
22 emergency energy supply distribution plans submitted pursuant  
23 to Section 25701, and, on or before January 6, 1975, the department  
24 shall approve and recommend to the Governor and the Legislature  
25 plans for emergency load curtailment and energy supply  
26 distribution in the event of a sudden energy shortage. Those plans  
27 shall be based upon the plans presented by the electric utilities,  
28 gas utilities, and fuel wholesalers or manufacturers, information  
29 provided by other governmental agencies, independent analysis  
30 and study by the department and information provided at the  
31 hearing or hearings. Those plans shall provide for the provision  
32 of essential services, the protection of public health, safety, and  
33 welfare, and the maintenance of a sound basic state economy.  
34 Provision shall be made in those plans to eliminate wasteful,  
35 uneconomic, and unnecessary uses of energy in times of shortages  
36 and to differentiate curtailment of energy consumption by users  
37 on the basis of ability to accommodate such curtailments. The  
38 plans shall also specify the authority of and recommend the  
39 appropriate actions of state and local governmental agencies in  
40 dealing with energy shortages.

1 ~~SEC. 242.~~

2 *SEC. 232.* Section 25703 of the Public Resources Code is  
3 amended to read:

4 25703. Within four months after the date of certification of a  
5 new facility, the department shall review and revise the  
6 recommended plans based on additional new capacity attributed  
7 to that facility. The department shall, after one or more public  
8 hearings, review the plans at least every five years from the  
9 approval of the initial plan as specified in Section 25702.

10 ~~SEC. 243.~~

11 *SEC. 233.* Section 25704 of the Public Resources Code is  
12 amended to read:

13 25704. The department shall carry out studies to determine if  
14 potential serious shortages of electrical, natural gas, or other  
15 sources of energy are likely to occur and shall make  
16 recommendations to the Governor and the Legislature concerning  
17 administrative and legislative actions required to avert possible  
18 energy supply emergencies or serious fuel shortages, including,  
19 but not limited to, energy conservation and energy development  
20 measures, to grant authority to specific governmental agencies or  
21 officers to take actions in the event of a sudden energy shortage,  
22 and to clarify and coordinate existing responsibilities for energy  
23 emergency actions.

24 ~~SEC. 244.~~

25 *SEC. 234.* Section 25705 of the Public Resources Code is  
26 amended to read:

27 25705. (a) If the department determines that all reasonable  
28 conservation, allocation, and service restriction measures may not  
29 alleviate an energy supply emergency, and upon a declaration by  
30 the Governor or by an act of the Legislature that a threat to public  
31 health, safety, and welfare exists and requires immediate action,  
32 the department shall authorize the construction and use of  
33 generating facilities under terms and conditions as specified by  
34 the department to protect the public interest.

35 (b) Within 60 days after the authorization of construction and  
36 use of the generating facilities, the department shall issue a report  
37 detailing the full nature, extent, and estimated duration of the  
38 emergency situation and making recommendations to the Governor  
39 and the Legislature for further energy conservation and energy

1 supply measures to alleviate the emergency situation as alternatives  
2 to use of the generating facilities.

3 ~~SEC. 245.~~

4 *SEC. 235.* Section 25720 of the Public Resources Code is  
5 amended to read:

6 25720. (a) By January 31, 2002, the department shall examine  
7 the feasibility, including possible costs and benefits to consumers  
8 and impacts on fuel prices for the general public, of operating a  
9 strategic fuel reserve to insulate California consumers and  
10 businesses from substantial short-term price increases arising from  
11 refinery outages and other similar supply interruptions. In  
12 evaluating the potential operation of a strategic fuel reserve, the  
13 department shall consult with other state agencies, including, but  
14 not limited to, the State Air Resources Board.

15 (b) The department shall examine and recommend an appropriate  
16 level of reserves of fuel, but in no event may the reserve be less  
17 than the amount of refined fuel that the department estimates could  
18 be produced by the largest California refiner over a two week  
19 period. In making this examination and recommendation, the  
20 department shall take into account all of the following:

21 (1) Inventories of California-quality fuels or fuel components  
22 reasonably available to the California market.

23 (2) Current and historic levels of inventory of fuels.

24 (3) The availability and cost of storage of fuels.

25 (4) The potential for future supply interruptions, price spikes,  
26 and the costs thereof to California consumers and businesses.

27 (c) The department shall evaluate a mechanism to release fuel  
28 from the reserve that permits any customer to contract at any time  
29 for the delivery of fuel from the reserve in exchange for an equal  
30 amount of fuel that meets California specifications and is produced  
31 from a source outside of California that the customer agrees to  
32 deliver back to the reserve within a time period to be established  
33 by the department, but not longer than six weeks.

34 (d) The department shall evaluate reserve storage space from  
35 existing facilities.

36 (e) The department shall evaluate a reserve operated by an  
37 independent operator that specializes in purchasing and storing  
38 fuel, and is selected through competitive bidding.

39 (f) (1) Not later than January 31, 2002, the department and the  
40 State Air Resources Board, in consultation with the other state and

1 local agencies the department deems necessary, shall develop and  
 2 adopt recommendations for the Governor and Legislature on a  
 3 California Strategy to Reduce Petroleum Dependence.

4 (2) The strategy shall include a base case forecast by the  
 5 department of gasoline, diesel, and petroleum consumption in years  
 6 2010 and 2020 based on current best estimates of economic and  
 7 population growth, petroleum base fuel supply and availability,  
 8 vehicle efficiency, and utilization of alternative fuels and advanced  
 9 transportation technologies.

10 (3) The strategy shall include recommended statewide goals for  
 11 reductions in the rate of growth of gasoline and diesel fuel  
 12 consumption and increased transportation energy efficiency and  
 13 utilization of nonpetroleum based fuels and advanced transportation  
 14 technologies, including alternative fueled vehicles, hybrid vehicles,  
 15 and high fuel efficiency vehicles.

16 (g) The studies required by this section shall be conducted in  
 17 conjunction with any other studies required by acts enacted during  
 18 the 2000 portion of the 1999–2000 Regular Session dealing with  
 19 gasoline prices.

20 ~~SEC. 246:~~

21 *SEC. 236.* Section 25721 of the Public Resources Code is  
 22 amended to read:

23 25721. The department shall report its findings and  
 24 recommendations for purposes of Section 25720 to the Governor,  
 25 the Legislature, and the Attorney General by January 31, 2002. If  
 26 the department finds that it would be feasible to operate a strategic  
 27 gas reserve to insulate California consumers and businesses from  
 28 substantial, short-term price increases arising from refinery outages  
 29 or other similar supply interruptions, the department shall request  
 30 specific statutory authority and funding for establishment of a  
 31 reserve.

32 ~~SEC. 247:~~

33 *SEC. 237.* Section 25722 of the Public Resources Code is  
 34 amended to read:

35 25722. (a) On or before January 31, 2003, the department, the  
 36 Department of General Services, and the State Air Resources  
 37 Board, in consultation with any other state agency that the  
 38 department, the Department of General Services, and the state  
 39 board deem necessary, shall develop and adopt fuel-efficiency  
 40 specifications governing the purchase by the state of motor vehicles

1 and replacement tires that, on an annual basis, will reduce  
2 petroleum consumption of the state vehicle fleet to the maximum  
3 extent practicable and cost effective.

4 (b) In developing the specifications, the department and the  
5 Department of General Services shall jointly conduct a study to  
6 examine state vehicle purchasing patterns, including the purchase  
7 of after market tires, and to analyze the costs and benefits of  
8 reducing the energy consumption of the state vehicle fleet by no  
9 less than 10 percent on or before January 1, 2005.

10 (c) The study shall include an analysis of all of the following  
11 topics:

12 (1) Use of alternative fuels.

13 (2) Use of fuel-efficient vehicles.

14 (3) Costs and benefits of decreasing the size of the state vehicle  
15 fleet.

16 (4) Reduction in vehicle trips and increase in use of alternative  
17 means of transportation.

18 (5) Improved vehicle maintenance.

19 (6) Costs and benefits of using fuel-efficient tires relative to  
20 using retreaded tires, as described in the Retreaded Tire Program,  
21 Chapter 7 (commencing with Section 42400) of Part 3 of Division  
22 30.

23 (7) The costs and benefits of purchasing high fuel efficiency  
24 gasoline vehicles, including hybrid electric vehicles, instead of  
25 flexible fuel vehicles.

26 (d) On or before January 31, 2003, and annually thereafter, the  
27 commission, the Department of General Services, and the State  
28 Air Resources Board, in consultation with any other state agency  
29 that the department, the Department of General Services, and the  
30 state board deem necessary, shall develop and adopt air pollution  
31 emission specifications governing the purchase by the state of  
32 passenger cars and light-duty trucks that meet or exceed  
33 California's Ultra-Low Emission Vehicle (ULEV) standards for  
34 exhaust emissions (13 Cal. Code Regs. 1960.1).

35 (e) If the study described in subdivision (b) determines that  
36 lower cost measures exist that deliver petroleum reductions  
37 equivalent to applicable federal requirements governing the state  
38 purchase of passenger cars and light-duty trucks, the state shall  
39 pursue a waiver from those federal requirements.

1     ~~SEC. 248.~~

2     *SEC. 238.* Section 25722.5 of the Public Resources Code is  
 3 amended to read:

4     25722.5. (a) In order to achieve the policy objectives set forth  
 5 in Sections 25000.5 and 25722, the Department of General  
 6 Services, in consultation with the department and the State Air  
 7 Resources Board, shall develop and adopt specifications and  
 8 standards for all passenger cars and light-duty trucks that are  
 9 purchased or leased on behalf of, or by, state offices, agencies,  
 10 and departments. An authorized emergency vehicle, as defined in  
 11 Section 165 of the Vehicle Code, that is equipped with emergency  
 12 lamps or lights described in Section 25252 of the Vehicle Code is  
 13 exempt from the requirements of this section. The specifications  
 14 and standards shall include the following:

15     (1) Minimum air pollution emission specifications that meet or  
 16 exceed California’s Ultra-Low Emission Vehicle II (ULEV II)  
 17 standards for exhaust emissions (13 Cal. Code Regs. 1961). These  
 18 specifications shall apply on January 1, 2006, for passenger cars  
 19 and on January 1, 2010, for light-duty trucks.

20     (2) Notwithstanding any other provision of law, the utilization  
 21 of procurement policies that enable the Department of General  
 22 Services to do all of the following:

23     (A) Evaluate and score emissions, fuel costs, and fuel economy  
 24 in addition to capital cost to enable the Department of General  
 25 Services to choose the vehicle with the lowest life-cycle cost when  
 26 awarding a state vehicle procurement contract.

27     (B) Maximize the purchase or lease of hybrid or “Best in Class”  
 28 vehicles that are substantially more fuel efficient than the class  
 29 average.

30     (C) Maximize the purchase or lease of available vehicles that  
 31 meet or exceed California’s Super Ultra-Low Emission Vehicle  
 32 (SULEV) passenger car standards for exhaust emissions.

33     (D) Maximize the purchase or lease of alternative fuel vehicles.

34     (3) In order to discourage the unnecessary purchase or leasing  
 35 of a sport utility vehicle and a four-wheel drive truck, a requirement  
 36 that each state office, agency, or department seeking to purchase  
 37 or lease that vehicle, demonstrate to the satisfaction of the Director  
 38 of General Services or to the entity that purchases or leases vehicles  
 39 for that office, agency, or department, that the vehicle is required  
 40 to perform an essential function of the office, agency, or

1 department. If it is so demonstrated, priority consideration shall  
2 be given to the purchase or lease of an alternative fuel or hybrid  
3 sports utility vehicle or four-wheel drive vehicle.

4 (b) The specifications and standards developed and adopted  
5 pursuant to subdivision (a) do not apply upon the development  
6 and implementation of the method, criteria, and procedure  
7 described in Section 25722.6.

8 (c) Each state office, agency, and department shall review its  
9 vehicle fleet and, upon finding that it is fiscally prudent, cost  
10 effective, or otherwise in the public interest to do so, shall dispose  
11 of nonessential sport utility vehicles and four-wheel drive trucks  
12 in its fleet and replace these vehicles with more fuel-efficient  
13 passenger cars and trucks.

14 (d) To the maximum extent practicable, each state office,  
15 agency, and department that has bifuel natural gas, bifuel propane,  
16 and flex fuel vehicles in its vehicle fleet shall use the respective  
17 alternative fuel in those vehicles.

18 (e) The Director of General Services shall compile annually and  
19 maintain information on the nature of vehicles that are owned or  
20 leased by the state, including, but not limited to, all of the  
21 following:

22 (1) The number of passenger-type motor vehicles purchased or  
23 leased during the year, and the number owned or leased as of  
24 December 31 of each year.

25 (2) The number of sport utility vehicles and four-wheel drive  
26 trucks purchased or leased by the state during the year, and the  
27 number owned or leased as of December 31 of each year.

28 (3) The number of alternatively fueled vehicles and hybrid  
29 vehicles purchased or leased by the state during the year, and the  
30 total number owned or leased as of December 31 of each year and  
31 their location.

32 (4) The locations of the alternative fuel pumps available for  
33 those vehicles.

34 (5) The justification provided for all sport utility vehicles and  
35 four-wheel drive trucks purchased or leased by the state and the  
36 specific office, department, or agency responsible for the purchase  
37 or lease.

38 (6) The number of sport utility vehicles and four-wheel drive  
39 trucks purchased or leased by the state during the year, and the

1 number owned or leased as of December 31 of each year that are  
 2 alternative fuel or hybrid vehicles.

3 (7) The number of light-duty trucks disposed of under  
 4 subdivision (c).

5 (8) The total dollars spent by the state on passenger-type vehicle  
 6 purchases and leases, categorized by sport utility vehicle and  
 7 nonsport utility vehicle, and within each of those categories, by  
 8 alternative fuel, hybrid and other.

9 (9) The total annual consumption of gasoline and diesel fuel  
 10 used by the state fleet.

11 (10) The total annual consumption of alternative fuels.

12 (11) On December 31, 2009, and annually thereafter, the  
 13 Director of General Services shall also compile the total annual  
 14 vehicle miles traveled by vehicles in the state fleet.

15 (f) Each state office, agency, and department shall cooperate  
 16 with the Department of General Services' data requests in order  
 17 that the department may compile and maintain the information  
 18 required in subdivision (e).

19 (g) As soon as practicable, but no later than 12 months after  
 20 receiving the data, the information compiled and maintained under  
 21 subdivision (e) and a list of those state offices, agencies, and  
 22 departments that are not in compliance with subdivision (f) shall  
 23 be made available to the public on the Department of General  
 24 Services' Internet Web site.

25 (h) Beginning July 1, 2009, and every three years thereafter,  
 26 the Director of General Services shall report to the Legislature and  
 27 the Governor the information compiled and maintained pursuant  
 28 to subdivision (e).

29 (i) Pursuant to Article IX of the California Constitution, this  
 30 section shall not apply to the University of California except to  
 31 the extent that the Regents of the University of California, by  
 32 appropriate resolution, make this section applicable.

33 ~~SEC. 249.~~

34 *SEC. 239.* Section 25723 of the Public Resources Code is  
 35 amended to read:

36 25723. On or before January 31, 2003, the department, in  
 37 consultation with any other state agency that the department deems  
 38 necessary, shall develop and adopt recommendations for  
 39 consideration by the Governor and the Legislature of a California

1 State Fuel-Efficient Tire Program. The department shall make  
2 recommendations on all of the following items:

3 (a) Establishing a test procedure for measuring tire fuel  
4 efficiency.

5 (b) Development of a database of fuel efficiency of existing  
6 tires in order to establish an accurate baseline of tire efficiency.

7 (c) A rating system for tires that provides consumers with  
8 information on the fuel efficiency of individual tire models.

9 (d) A consumer-friendly system to disseminate tire  
10 fuel-efficiency information as broadly as possible. The department  
11 shall consider labeling, Web site listing, printed fuel economy  
12 guide booklets, and mandatory requirements for tire retailers to  
13 provide fuel-efficiency information.

14 (e) A study to determine the safety implications, if any, of  
15 different policies to promote fuel efficient replacement tires in the  
16 consumer market.

17 (f) A mandatory fuel-efficiency standard for all after market  
18 tires sold in California.

19 (g) Consumer incentive programs that would offer a rebate to  
20 purchasers of replacement tires that are more fuel efficient than  
21 the average replacement tire.

22 ~~SEC. 249.5.~~

23 *SEC. 240.* Section 25740.5 of the Public Resources Code is  
24 amended to read:

25 25740.5. (a) The department shall optimize public investment  
26 and ensure that the most cost-effective and efficient investments  
27 in renewable energy resources are vigorously pursued.

28 (b) The department's long-term goal shall be a fully competitive  
29 and self-sustaining supply of electricity generated from renewable  
30 sources.

31 (c) The program objective shall be to increase, in the near term,  
32 the quantity of California's electricity generated by in-state  
33 renewable electricity generation facilities, while protecting system  
34 reliability, fostering resource diversity, and obtaining the greatest  
35 environmental benefits for California residents.

36 (d) An additional objective of the program shall be to identify  
37 and support emerging renewable technologies in distributed  
38 generation applications that have the greatest near-term commercial  
39 promise and that merit targeted assistance.

- 1 (e) The Legislature recommends allocations among all of the  
2 following:
- 3 (1) Rebates, buydowns, or equivalent incentives for emerging  
4 renewable technologies.
- 5 (2) Customer education.
- 6 (3) Production incentives for reducing fuel costs, that are  
7 confirmed to the satisfaction of the commission, at solid fuel  
8 biomass energy facilities in order to provide demonstrable  
9 environmental and public benefits, including improved air quality.
- 10 (4) Solar thermal generating resources that enhance the  
11 environmental value or reliability of the electrical system and that  
12 require financial assistance to remain economically viable, as  
13 determined by the department. The department may require  
14 financial disclosure from applicants for purposes of this paragraph.
- 15 (5) Specified fuel cell technologies, if the department makes all  
16 of the following findings:
- 17 (A) The specified technologies have similar or better air  
18 pollutant characteristics than renewable technologies in the report  
19 made pursuant to Section 25748.
- 20 (B) The specified technologies require financial assistance to  
21 become commercially viable by reference to wholesale generation  
22 prices.
- 23 (C) The specified technologies could contribute significantly  
24 to the infrastructure development or other innovation required to  
25 meet the long-term objective of a self-sustaining, competitive  
26 supply of electricity generated from renewable sources.
- 27 (6) Existing wind-generating resources, if the department finds  
28 that the existing wind-generating resources are a cost-effective  
29 source of reliable energy and environmental benefits compared  
30 with other in-state renewable electricity generation facilities, and  
31 that the existing wind-generating resources require financial  
32 assistance to remain economically viable. The department may  
33 require financial disclosure from applicants for the purposes of  
34 this paragraph.
- 35 (f) Notwithstanding any other provision of law, moneys  
36 collected for renewable energy pursuant to Article 15 (commencing  
37 with Section 399) of Chapter 2.3 of Part 1 of Division 1 of the  
38 Public Utilities Code shall be transferred to the Renewable  
39 Resource Trust Fund. Moneys collected between January 1, 2007,

1 and January 1, 2012, shall be used for the purposes specified in  
2 this chapter.

3 ~~SEC. 250.~~

4 *SEC. 241.* Section 25741 of the Public Resources Code is  
5 amended to read:

6 25741. As used in this chapter, the following terms have the  
7 following meaning:

8 (a) “Delivered” and “delivery” mean the electricity output of  
9 an in-state renewable electricity generation facility that is used to  
10 serve end-use retail customers located within the state. Subject to  
11 verification by the accounting system established by the ~~department~~  
12 *commission* pursuant to subdivision (b) of Section 399.13 of the  
13 Public Utilities Code, electricity shall be deemed delivered if it is  
14 either generated at a location within the state, or is scheduled for  
15 consumption by California end-use retail customers. Subject to  
16 criteria adopted by the ~~department~~ *commission*, electricity  
17 generated by an eligible renewable energy resource may be  
18 considered “delivered” regardless of whether the electricity is  
19 generated at a different time from consumption by a California  
20 end-use customer.

21 (b) “In-state renewable electricity generation facility” means a  
22 facility that meets all of the following criteria:

23 (1) The facility uses biomass, solar thermal, photovoltaic, wind,  
24 geothermal, fuel cells using renewable fuels, small hydroelectric  
25 generation of 30 megawatts or less, digester gas, municipal solid  
26 waste conversion, landfill gas, ocean wave, ocean thermal, or tidal  
27 current, and any additions or enhancements to the facility using  
28 that technology.

29 (2) The facility satisfies one of the following requirements:

30 (A) The facility is located in the state or near the border of the  
31 state with the first point of connection to the transmission network  
32 within this state and electricity produced by the facility is delivered  
33 to an in-state location.

34 (B) The facility has its first point of interconnection to the  
35 transmission network outside the state and satisfies all of the  
36 following requirements:

37 (i) It is connected to the transmission network within the  
38 Western Electricity Coordinating Council (WECC) service  
39 territory.

1 (ii) It commences initial commercial operation after January 1,  
2 2005.

3 (iii) Electricity produced by the facility is delivered to an in-state  
4 location.

5 (iv) It will not cause or contribute to any violation of a California  
6 environmental quality standard or requirement.

7 (v) If the facility is outside of the United States, it is developed  
8 and operated in a manner that is as protective of the environment  
9 as a similar facility located in the state.

10 (vi) It participates in the accounting system to verify compliance  
11 with the renewables portfolio standard by retail sellers, once  
12 established by the ~~department~~ *commission* pursuant to subdivision  
13 (b) of Section 399.13 of the Public Utilities Code.

14 (C) The facility meets the requirements of clauses (i), (iii), (iv),  
15 (v), and (vi) in subparagraph (B), but does not meet the  
16 requirements of clause (ii) because it commences initial operation  
17 prior to January 1, 2005, if the facility satisfies either of the  
18 following requirements:

19 (i) The electricity is from incremental generation resulting from  
20 expansion or repowering of the facility.

21 (ii) The facility has been part of the existing baseline of eligible  
22 renewable energy resources of a retail seller established pursuant  
23 to paragraph (2) of subdivision (b) of Section 399.15 of the Public  
24 Utilities Code or has been part of the existing baseline of eligible  
25 renewable energy resources of a local publicly owned electric  
26 utility established pursuant to Section 387 of the Public Utilities  
27 Code.

28 (3) For the purposes of this subdivision, “solid waste  
29 conversion” means a technology that uses a noncombustion thermal  
30 process to convert solid waste to a clean-burning fuel for the  
31 purpose of generating electricity, and that meets all of the following  
32 criteria:

33 (A) The technology does not use air or oxygen in the conversion  
34 process, except ambient air to maintain temperature control.

35 (B) The technology produces no discharges of air contaminants  
36 or emissions, including greenhouse gases as defined in Section  
37 38505 of the Health and Safety Code.

38 (C) The technology produces no discharges to surface or  
39 groundwaters of the state.

40 (D) The technology produces no hazardous wastes.

1 (E) To the maximum extent feasible, the technology removes  
2 all recyclable materials and marketable green waste compostable  
3 materials from the solid waste stream prior to the conversion  
4 process and the owner or operator of the facility certifies that those  
5 materials will be recycled or composted.

6 (F) The facility at which the technology is used is in compliance  
7 with all applicable laws, regulations, and ordinances.

8 (G) The technology meets any other conditions established by  
9 the ~~department~~ *commission*.

10 (H) The facility certifies that any local agency sending solid  
11 waste to the facility diverted at least 30 percent of all solid waste  
12 it collects through solid waste reduction, recycling, and  
13 composting. For purposes of this paragraph, “local agency” means  
14 any city, county, or special district, or subdivision thereof, which  
15 is authorized to provide solid waste handling services.

16 (c) “Procurement entity” means any person or corporation that  
17 enters into an agreement with a retail seller to procure eligible  
18 renewable energy resources pursuant to subdivision (f) of Section  
19 399.14 of the Public Utilities Code.

20 (d) “Renewable energy public goods charge” means that portion  
21 of the nonbypassable system benefits charge authorized to be  
22 collected and to be transferred to the Renewable Resource Trust  
23 Fund pursuant to the Reliable Electric Service Investments Act  
24 (Article 15 (commencing with Section 399) of Chapter 2.3 of Part  
25 1 of Division 1 of the Public Utilities Code).

26 (e) “Report” means the report entitled “Investing in Renewable  
27 Electricity Generation in California” (June 2001, Publication  
28 Number P500-00-022) submitted to the Governor and the  
29 Legislature by the former State Energy Resources Conservation  
30 and Development Commission.

31 (f) “Retail seller” means a “retail seller” as defined in Section  
32 399.12 of the Public Utilities Code.

33 ~~SEC. 251. Section 25742 of the Public Resources Code is~~  
34 ~~amended to read:~~

35 ~~25742. (a) Twenty percent of the funds collected pursuant to~~  
36 ~~the renewable energy public goods charge shall be used for~~  
37 ~~programs that are designed to achieve fully competitive and~~  
38 ~~self-sustaining existing in-state renewable electricity generation~~  
39 ~~facilities, and to secure for the state the environmental, economic,~~  
40 ~~and reliability benefits that continued operation of those facilities~~

1 will provide during the 2007–2011 investment cycle. Eligibility  
2 for production incentives under this section shall be limited to  
3 those technologies found eligible for funds by the department  
4 pursuant to paragraphs (3), (4), and (6) of subdivision (c) of Section  
5 25740.5.

6 (b) Funds used to support in-state renewable electricity  
7 generation facilities pursuant to this section shall be expended in  
8 accordance with this chapter.

9 (c) Facilities that are eligible to receive funding pursuant to this  
10 section shall be registered in accordance with criteria developed  
11 by the department and those facilities shall not receive payments  
12 for any electricity produced that has any of the following  
13 characteristics:

14 (1) Is sold at monthly average rates equal to, or greater than,  
15 the applicable target price, as determined by the department.

16 (2) Is used onsite.

17 (d) (1) Existing facilities generating electricity from biomass  
18 energy shall be eligible for funding and otherwise considered an  
19 in-state renewable electricity generation facility only if they report  
20 to the department the types and quantities of biomass fuels used.

21 (2) The department shall report the types and quantities of  
22 biomass fuels used by each facility to the Legislature in the reports  
23 prepared pursuant to Section 25748.

24 (e) An existing facility seeking an award pursuant to this section  
25 shall be evaluated by the department to determine the amount of  
26 the funds being sought, the cumulative amount of funds the facility  
27 has received previously from the department and other state  
28 sources, the value of any past and current federal or state tax  
29 credits, the facility's contract price for energy and capacity, the  
30 prices received by similar facilities, the market value of the facility,  
31 and the likelihood that the award will make the facility competitive  
32 and self-sustaining within the 2007–2011 investment cycle. The  
33 department shall use this evaluation to determine the value of an  
34 award to the public relative to other renewable energy investment  
35 alternatives. The department shall compile its findings and report  
36 them to the Legislature in the reports prepared pursuant to Section  
37 25748.

38 SEC. 252. Section 25743 of the Public Resources Code is  
39 amended to read:

1 ~~25743. (a) The department shall terminate all production~~  
2 ~~incentives awarded from the New Renewable Resources Account~~  
3 ~~prior to January 1, 2002, unless the project began generating~~  
4 ~~electricity by January 1, 2007.~~

5 ~~(b) (1) The department shall, by March 1, 2008, transfer to~~  
6 ~~electrical corporations serving customers subject to the renewable~~  
7 ~~energy public goods charge the remaining unencumbered funds~~  
8 ~~in the New Renewable Resources Account.~~

9 ~~(2) The Public Utilities Commission shall ensure that each~~  
10 ~~electrical corporation allocates funds received from the department~~  
11 ~~pursuant to paragraph (1) in a manner that maximizes the economic~~  
12 ~~benefit to all customer classes that funded the New Renewable~~  
13 ~~Resources Account.~~

14 ~~SEC. 253. Section 25744 of the Public Resources Code is~~  
15 ~~amended to read:~~

16 ~~25744. (a) Seventy-nine percent of the money collected~~  
17 ~~pursuant to the renewable energy public goods charge shall be~~  
18 ~~used for a multiyear, consumer-based program to foster the~~  
19 ~~development of emerging renewable technologies in distributed~~  
20 ~~generation applications.~~

21 ~~(b) Funds used for emerging technologies pursuant to this~~  
22 ~~section shall be expended in accordance with this chapter, subject~~  
23 ~~to all of the following requirements:~~

24 ~~(1) Funding for emerging technologies shall be provided through~~  
25 ~~a competitive, market-based process that is in place for a period~~  
26 ~~of not less than five years, and is structured to allow eligible~~  
27 ~~emerging technology manufacturers and suppliers to anticipate~~  
28 ~~and plan for increased sale and installation volumes over the life~~  
29 ~~of the program.~~

30 ~~(2) The program shall provide monetary rebates, buydowns, or~~  
31 ~~equivalent incentives, subject to paragraph (3), to purchasers,~~  
32 ~~lessees, lessors, or sellers of eligible electricity generating systems.~~  
33 ~~Incentives shall benefit the end-use consumer of renewable~~  
34 ~~generation by directly and exclusively reducing the purchase or~~  
35 ~~lease cost of the eligible system, or the cost of electricity produced~~  
36 ~~by the eligible system. Incentives shall be issued on the basis of~~  
37 ~~the rated electrical generating capacity of the system measured in~~  
38 ~~watts, or the amount of electricity production of the system,~~  
39 ~~measured in kilowatthours. Incentives shall be limited to a~~  
40 ~~maximum percentage of the system price, as determined by the~~

1 department. The department may establish different incentive  
2 levels for systems based on technology type and system size, and  
3 may provide different incentive levels for systems used in  
4 conjunction with energy efficiency measures.

5 (3) Eligible distributed emerging technologies are fuel cell  
6 technologies that utilize renewable fuels, including fuel cell  
7 technologies with an emission profile equivalent or better than the  
8 State Air Resources Board 2007 standard, and that serve as backup  
9 generation for emergency, safety, or telecommunications systems.  
10 Eligible renewable fuels may include wind turbines of not more  
11 than 50 kilowatts rated electrical generating capacity per customer  
12 site and other distributed renewable emerging technologies that  
13 meet the emerging technology eligibility criteria established by  
14 the department and are not eligible for rebates, buydowns, or  
15 similar incentives from any other commission or Public Utilities  
16 Commission program. Eligible electricity generating systems are  
17 intended primarily to offset part or all of the consumer's own  
18 electricity demand, including systems that are used as backup  
19 power for emergency, safety, or telecommunications, and shall  
20 not be owned by local publicly owned electric utilities, nor be  
21 located at a customer site that is not receiving distribution service  
22 from an electrical corporation that is subject to the renewable  
23 energy public goods charge and contributing funds to support  
24 programs under this chapter. All eligible electricity generating  
25 system components shall be new and unused, shall not have been  
26 previously placed in service in any other location or for any other  
27 application, and shall have a warranty of not less than five years  
28 to protect against defects and undue degradation of electrical  
29 generation output. Systems and their fuel resources shall be located  
30 on the same premises of the end-use consumer where the  
31 consumer's own electricity demand is located, and all eligible  
32 electricity generating systems shall be connected to the utility grid,  
33 unless the system purpose is for backup generation used in  
34 emergency, safety, or telecommunications in California. The  
35 department may require eligible electricity generating systems to  
36 have meters in place to monitor and measure a system's  
37 performance and generation. Only systems that will be operated  
38 in compliance with applicable law and the rules of the Public  
39 Utilities Commission shall be eligible for funding.

1 ~~(4) The department shall limit the amount of funds available~~  
2 ~~for a system or project of multiple systems and reduce the level~~  
3 ~~of funding for a system or project of multiple systems that has~~  
4 ~~received, or may be eligible to receive, any government or utility~~  
5 ~~funds, incentives, or credit.~~

6 ~~(5) In awarding funding, the department may provide preference~~  
7 ~~to systems that provide tangible demonstrable benefits to~~  
8 ~~communities with a plurality of minority or low-income~~  
9 ~~populations.~~

10 ~~(6) In awarding funding, the department shall develop and~~  
11 ~~implement eligibility criteria and a system that provides preference~~  
12 ~~to systems based upon system performance, taking into account~~  
13 ~~factors, including shading, insulation levels, and installation~~  
14 ~~orientation.~~

15 ~~(7) At least once annually, the department shall publish and~~  
16 ~~make available to the public the balance of funds available for~~  
17 ~~emerging renewable energy resources for rebates, buydowns, and~~  
18 ~~other incentives for the purchase of these resources.~~

19 ~~(e) Notwithstanding Section 27540.5, the department may~~  
20 ~~expend, until December 31, 2008, up to sixty million dollars~~  
21 ~~(\$60,000,000) of the funding allocated to the Renewable Resources~~  
22 ~~Trust Fund for the program established in this section, subject to~~  
23 ~~the repayment requirements of subdivision (f) of Section 25751.~~

24 ~~(d) Funds for photovoltaic or solar thermal electric technologies~~  
25 ~~shall be awarded in compliance with Chapter 8.8 (commencing~~  
26 ~~with Section 25780), and not with this section.~~

27 ~~SEC. 253.5. Section 25744.5 of the Public Resources Code is~~  
28 ~~amended to read:~~

29 ~~25744.5. The department shall allocate and use funding~~  
30 ~~available for emerging renewable technologies pursuant to Section~~  
31 ~~25744 and Section 25751 to fund photovoltaic and solar thermal~~  
32 ~~electric technologies in accordance with eligibility criteria and~~  
33 ~~conditions established pursuant to Chapter 8.8 (commencing with~~  
34 ~~Section 25780).~~

35 ~~SEC. 254. Section 25747 of the Public Resources Code is~~  
36 ~~amended to read:~~

37 ~~25747. (a) The department shall adopt guidelines governing~~  
38 ~~the funding programs authorized under this chapter, at a publicly~~  
39 ~~noticed meeting offering all interested parties an opportunity to~~  
40 ~~comment. Substantive changes to the guidelines may not be~~

1 adopted without at least 10 days' written notice to the public. The  
2 public notice of meetings required by this subdivision may not be  
3 less than 30 days. Notwithstanding any other provision of law, any  
4 guidelines adopted pursuant to this chapter or Section 399.13 of  
5 the Public Utilities Code, shall be exempt from the requirements  
6 of Chapter 3.5 (commencing with Section 11340) of Part 1 of  
7 Division 3 of Title 2 of the Government Code. The Legislature  
8 declares that the changes made to this subdivision by the act  
9 amending this section during the 2002 portion of the 2001-02  
10 Regular Session are declaratory of, and not a change in existing  
11 law.

12 ~~(b) Funds to further the purposes of this chapter may be~~  
13 ~~committed for multiple years.~~

14 ~~(c) Awards made pursuant to this chapter are grants, subject to~~  
15 ~~appeal to the department upon a showing that factors other than~~  
16 ~~those described in the guidelines adopted by the department were~~  
17 ~~applied in making the awards and payments. Any actions taken~~  
18 ~~by an applicant to apply for, or become or remain eligible and~~  
19 ~~registered to receive, payments or awards, including satisfying~~  
20 ~~conditions specified by the department, shall not constitute the~~  
21 ~~rendering of goods, services, or a direct benefit to the department.~~

22 ~~(d) An award made pursuant to this chapter, the amount of the~~  
23 ~~award, and the terms and conditions of the grant are public~~  
24 ~~information.~~

25 ~~SEC. 255. Section 25748 of the Public Resources Code is~~  
26 ~~amended to read:~~

27 ~~25748. (a) The department shall report to the Legislature on~~  
28 ~~or before November 1, 2007, and annually thereafter, regarding~~  
29 ~~the results of the mechanisms funded pursuant to this chapter. The~~  
30 ~~report shall contain all of the following:~~

31 ~~(1) A description of the allocation of funds among existing,~~  
32 ~~new, and emerging technologies, the allocation of funds among~~  
33 ~~programs, including consumer-side incentives, and the need for~~  
34 ~~the reallocation of money among those technologies.~~

35 ~~(2) The status of account transfers and repayments.~~

36 ~~(3) A description of the cumulative commitment of claims by~~  
37 ~~account, the relative demand for funds by account, and a forecast~~  
38 ~~of future awards.~~

1 ~~(4) A list identifying the types and quantities of biomass fuels~~  
2 ~~used by facilities receiving funds pursuant to Section 25742 and~~  
3 ~~their impacts on improving air quality.~~

4 ~~(5) A discussion of the progress being made toward achieving~~  
5 ~~the targets established under Section 25740 by each funding~~  
6 ~~category authorized pursuant to this chapter.~~

7 ~~(6) A description of the allocation of funds from interest on the~~  
8 ~~accounts described in this chapter, and money in the accounts~~  
9 ~~described in subdivision (b) of Section 25751.~~

10 ~~(7) An itemized list, including project descriptions, award~~  
11 ~~amounts, and outcomes for projects awarded funding in the prior~~  
12 ~~year.~~

13 ~~(8) Other matters the department determines may be of~~  
14 ~~importance to the Legislature.~~

15 ~~(b) Money may be reallocated without further legislative action~~  
16 ~~among existing, new, and emerging technologies and~~  
17 ~~consumer-side programs in a manner consistent with the report~~  
18 ~~and with the latest report provided to the Legislature pursuant to~~  
19 ~~this section, except that reallocations shall not increase the~~  
20 ~~allocation established in Section 25742.~~

21 ~~SEC. 256. Section 25751 of the Public Resources Code is~~  
22 ~~amended to read:~~

23 ~~25751. (a) The Renewable Resource Trust Fund is hereby~~  
24 ~~created in the State Treasury.~~

25 ~~(b) The following accounts are hereby established within the~~  
26 ~~Renewable Resource Trust Fund:~~

27 ~~(1) Existing Renewable Resources Account.~~

28 ~~(2) Emerging Renewable Resources Account.~~

29 ~~(3) Renewable Resources Consumer Education Account.~~

30 ~~(c) The money in the fund may be expended, only upon~~  
31 ~~appropriation by the Legislature in the annual Budget Act, for the~~  
32 ~~following purposes:~~

33 ~~(1) The administration of this article by the state.~~

34 ~~(2) The state's expenditures associated with the accounting~~  
35 ~~system established by the commission pursuant to subdivision (b)~~  
36 ~~of Section 399.13 of the Public Utilities Code.~~

37 ~~(d) That portion of revenues collected by electrical corporations~~  
38 ~~for the benefit of in-state operation and development of existing~~  
39 ~~and new and emerging renewable resource technologies, pursuant~~  
40 ~~to Section 399.8 of the Public Utilities Code, shall be transmitted~~

1 to the department at least quarterly for deposit in the Renewable  
2 Resource Trust Fund pursuant to Section 25740.5. After setting  
3 aside in the fund money that may be needed for expenditures  
4 authorized by the annual Budget Act in accordance with  
5 subdivision (c), the Treasurer shall immediately deposit money  
6 received pursuant to this section into the accounts created pursuant  
7 to subdivision (b) in proportions designated by the department for  
8 the current calendar year. Notwithstanding Section 13340 of the  
9 Government Code, the money in the fund and the accounts within  
10 the fund are hereby continuously appropriated to the department  
11 without regard to fiscal year for the purposes enumerated in this  
12 chapter.

13 (e) Upon notification by the department, the Controller shall  
14 pay all awards of the money in the accounts created pursuant to  
15 subdivision (b) for purposes enumerated in this chapter. The  
16 eligibility of each award shall be determined solely by the  
17 department based on the procedures it adopts under this chapter.  
18 Based on the eligibility of each award, the department shall also  
19 establish the need for a multiyear commitment to any particular  
20 award and so advise the Department of Finance. Eligible awards  
21 submitted by the department to the Controller shall be accompanied  
22 by information specifying the account from which payment should  
23 be made and the amount of each payment; a summary description  
24 of how payment of the award furthers the purposes enumerated in  
25 this chapter; and an accounting of future costs associated with any  
26 award or group of awards known to the department to represent a  
27 portion of a multiyear funding commitment.

28 (f) The department may transfer funds between accounts for  
29 cashflow purposes if the balance due each account is restored and  
30 the transfer does not adversely affect any of the accounts.

31 (g) The Department of Finance shall conduct an independent  
32 audit of the Renewable Resource Trust Fund and its related  
33 accounts annually, and provide an audit report to the Legislature  
34 not later than March 1 of each year for which this article is  
35 operative. The Department of Finance's report shall include  
36 information regarding revenues, payment of awards, reserves held  
37 for future commitments, unencumbered cash balances, and other  
38 matters that the Director of Finance determines may be of  
39 importance to the Legislature.

1 ~~SEC. 257.~~

2 *SEC. 242.* Section 25771 of the Public Resources Code is  
3 amended to read:

4 25771. On or before July 1, 2006, the department shall develop  
5 and adopt all of the following:

6 (a) A database of the energy efficiency of a representative  
7 sample of replacement tires sold in the state, based on test  
8 procedures adopted by the department.

9 (b) Based on the data collected pursuant to subdivision (a), a  
10 rating system for the energy efficiency of replacement tires sold  
11 in the state, that will enable consumers to make more informed  
12 decisions when purchasing tires for their vehicles.

13 (c) Based on the test procedures adopted pursuant to subdivision  
14 (a) and the rating system established pursuant to subdivision (b),  
15 requirements for tire manufacturers to report to the department the  
16 energy efficiency of replacement tires sold in the state.

17 ~~SEC. 258.~~

18 *SEC. 243.* Section 25772 of the Public Resources Code is  
19 amended to read:

20 25772. On or before July 1, 2007, the department, in  
21 consultation with the board, shall, after appropriate notice and  
22 workshops, adopt and, on or before July 1, 2008, implement, a tire  
23 energy efficiency program of statewide applicability for  
24 replacement tires, designed to ensure that replacement tires sold  
25 in the state are at least as energy efficient, on average, as tires sold  
26 in the state as original equipment on new passenger cars and  
27 light-duty trucks.

28 ~~SEC. 259.~~

29 *SEC. 244.* Section 25773 of the Public Resources Code is  
30 amended to read:

31 25773. (a) The program described in Section 25772 shall  
32 include all of the following:

33 (1) The development and adoption of minimum energy  
34 efficiency standards for replacement tires, except to the extent that  
35 the department determines that it is unable to do so in a manner  
36 that complies with subparagraphs (A) to (D), inclusive. Energy  
37 efficiency standards adopted pursuant to this paragraph shall meet  
38 all of the following conditions:

39 (A) Be technically feasible and cost effective.

40 (B) Not adversely affect tire safety.

1 (C) Not adversely affect the average tire life of replacement  
2 tires.

3 (D) Not adversely affect state efforts to manage scrap tires  
4 pursuant to Chapter 17 (commencing with Section 42860) of Part  
5 3 of Division 30.

6 (2) The development and adoption of consumer information  
7 requirements for replacement tires for which standards have been  
8 adopted pursuant to paragraph (1).

9 (b) The energy efficiency standards established pursuant to  
10 paragraph (1) of subdivision (a) shall be based on the results of  
11 laboratory testing and, to the extent it is available and deemed  
12 appropriate by the department, an onroad fleet testing program  
13 developed by tire manufacturers in consultation with the  
14 department and the board, conducted by tire manufacturers, and  
15 submitted to the department on or before January 1, 2006.

16 (c) If the department finds that tires used to equip an authorized  
17 emergency vehicle, as defined in Section 165 of the Vehicle Code,  
18 are unable to meet the standards established pursuant to paragraph  
19 (1) of subdivision (a), the department shall authorize an operator  
20 of an authorized emergency vehicle fleet to purchase for those  
21 vehicles tires that do not meet those standards.

22 (d) The department, in consultation with the board, shall review  
23 and revise the program, including any standards adopted pursuant  
24 to the program, as necessary, but not less than once every three  
25 years. The department may not revise the program or standards in  
26 a way that reduces the average efficiency of replacement tires.

27 ~~SEC. 259.2.~~

28 *SEC. 245.* Section 25782 of the Public Resources Code is  
29 amended to read:

30 25782. (a) The department shall, by January 1, 2008, in  
31 consultation with the Public Utilities Commission, local publicly  
32 owned electric utilities, and interested members of the public,  
33 establish eligibility criteria for solar energy systems receiving  
34 ratepayer funded incentives that include all of the following:

35 (1) Design, installation, and electrical output standards or  
36 incentives.

37 (2) The solar energy system is intended primarily to offset part  
38 or all of the consumer's own electricity demand.

1 (3) All components in the solar energy system are new and  
2 unused, and have not previously been placed in service in any  
3 other location or for any other application.

4 (4) The solar energy system has a warranty of not less than 10  
5 years to protect against defects and undue degradation of electrical  
6 generation output.

7 (5) The solar energy system is located on the same premises of  
8 the end-use consumer where the consumer's own electricity  
9 demand is located.

10 (6) The solar energy system is connected to the electrical  
11 corporation's electrical distribution system within the state.

12 (7) The solar energy system has meters or other devices in place  
13 to monitor and measure the system's performance and the quantity  
14 of electricity generated by the system.

15 (8) The solar energy system is installed in conformance with  
16 the manufacturer's specifications and in compliance with all  
17 applicable electrical and building code standards.

18 (b) The department shall establish conditions on ratepayer  
19 funded incentives that require all of the following:

20 (1) Appropriate siting and high quality installation of the solar  
21 energy system by developing installation guidelines that maximize  
22 the performance of the system and prevent qualified systems from  
23 being inefficiently or inappropriately installed. The conditions  
24 established by the department shall not impact housing designs or  
25 densities presently authorized by a city, county, or city and county.  
26 The goal of this paragraph is to achieve efficient installation of  
27 solar energy systems to promote the greatest energy production  
28 per ratepayer dollar.

29 (2) Optimal solar energy system performance during periods of  
30 peak electricity demand.

31 (3) Appropriate energy efficiency improvements in the new or  
32 existing home or commercial structure where the solar energy  
33 system is installed.

34 (c) The department shall set rating standards for equipment,  
35 components, and systems to assure reasonable performance and  
36 shall develop standards that provide for compliance with the  
37 minimum ratings.

38 (d) Upon establishment of eligibility criteria pursuant to  
39 subdivision (a), ratepayer funded incentives shall not be made for  
40 a solar energy system that fails to meet the eligibility criteria.

1     ~~SEC. 259.5.~~

2     *SEC. 246.* Section 25783 of the Public Resources Code is  
3 amended to read:

4     25783. The department shall do all the following:

5     (a) Publish educational materials designed to demonstrate how  
6 builders may incorporate solar energy systems during construction  
7 as well as energy efficiency measures that best complement solar  
8 energy systems.

9     (b) Develop and publish the estimated annual electrical  
10 generation and savings for solar energy systems. The estimates  
11 shall vary by climate zone, type of system, size, life cycle costs,  
12 electricity prices, and other factors the department determines to  
13 be relevant to a consumer when making a purchasing decision.

14     (c) Provide assistance to builders and contractors. The assistance  
15 may include technical workshops, training, educational materials,  
16 and related research.

17     (d) The department shall annually conduct random audits of  
18 solar energy systems to evaluate their operational performance.

19     ~~SEC. 259.7.~~

20     *SEC. 247.* Section 25784 of the Public Resources Code is  
21 amended to read:

22     25784. The department shall adopt guidelines for solar energy  
23 systems receiving ratepayer funded incentives at a publicly noticed  
24 meeting offering all interested parties an opportunity to comment.  
25 Not less than 30 days’ public notice shall be given of the meeting  
26 required by this section, before the department initially adopts  
27 guidelines. Substantive changes to the guidelines shall not be  
28 adopted without at least 10 days’ written notice to the public.  
29 Notwithstanding any other provision of law, any guidelines adopted  
30 pursuant to this chapter shall be exempt from the requirements of  
31 Chapter 3.5 (commencing with Section 11340) of Part 1 of Division  
32 3 of Title 2 of the Government Code.

33     ~~SEC. 260.~~

34     *SEC. 248.* Section 25802 of the Public Resources Code is  
35 amended to read:

36     25802. (a) A person who submits to the department a notice  
37 of intent for a proposed generating facility shall accompany the  
38 notice with a fee of one cent (\$0.01) per kilowatt of net electric  
39 capacity of the proposed generation facility. The fee shall only be  
40 paid on one of the alternate proposed facility sites that has the

1 highest electrical designed capacity. In no event shall the fee be  
2 less than one thousand dollars (\$1,000) nor more than twenty-five  
3 thousand dollars (\$25,000).

4 (b) For any other facility, the notice shall be accompanied by a  
5 fee of five thousand dollars (\$5,000). The fee shall only be paid  
6 on one of the alternate proposed facility sites.

7 ~~SEC. 261.~~

8 *SEC. 249.* Section 25803 of the Public Resources Code is  
9 amended to read:

10 25803. Funds received by the department pursuant to Section  
11 25802, shall be remitted to the State Treasurer for deposit in the  
12 account. All funds in the account shall be expended for purposes  
13 of carrying out the provisions of this division, when appropriated  
14 by the Legislature in the Budget Act.

15 ~~SEC. 262.~~

16 *SEC. 250.* Section 25900 of the Public Resources Code is  
17 amended to read:

18 25900. Except as provided in Section 25531, whenever the  
19 department finds that any provision of this division is violated or  
20 a violation is threatening to take place that constitutes an  
21 emergency requiring immediate action to protect the public health,  
22 welfare, or safety, the Attorney General, upon request of the  
23 department, shall petition a court to enjoin the violation. The court  
24 shall have jurisdiction to grant prohibitory or mandatory injunctive  
25 relief as may be warranted by way of temporary restraining order,  
26 preliminary injunction, and permanent injunction.

27 ~~SEC. 263.~~

28 *SEC. 251.* Section 25901 of the Public Resources Code is  
29 amended to read:

30 25901. (a) Within 30 days after the department, including the  
31 commission, issues its determination on any matter specified in  
32 this division, except as provided in Section 25531, an aggrieved  
33 person may file with the superior court a petition for a writ of  
34 mandate for review of the determination. Failure to file this petition  
35 does not preclude a person from challenging the reasonableness  
36 and validity of a decision in any judicial proceedings brought to  
37 enforce the decision or to obtain other civil remedies.

38 (b) The decision of the department or the commission shall be  
39 sustained by the court unless the court finds (1) that the department  
40 or the commission proceeded without, or in excess of its

1 jurisdiction, (2) that, based exclusively upon a review of the record  
2 before the department or the commission, the decision is not  
3 supported by substantial evidence in light of the whole record, or  
4 (3) that the department or the commission failed to proceed in the  
5 manner required by law.

6 (c) Except as otherwise provided in this section, subdivisions  
7 (f) and (g) of Section 1094.5 of the Code of Civil Procedure govern  
8 proceedings pursuant to this section.

9 (d) The amendment of this section made at the 1989–90 Regular  
10 Session of the Legislature does not constitute a change in, but is  
11 declaratory of, existing law.

12 ~~SEC. 264.~~

13 *SEC. 252.* Section 25902 of the Public Resources Code is  
14 amended to read:

15 25902. Any evaluations in the reports required by Section  
16 25302 and any findings and determinations on the notice of intent  
17 pursuant to Chapter 6 (commencing with Section 25500) shall not  
18 be construed as a final evaluation, finding, or determination by the  
19 department or the commission and a court action may not be  
20 brought to review the evaluation, finding, or determination.

21 ~~SEC. 265.~~

22 *SEC. 253.* Section 25911 of the Public Resources Code is  
23 amended to read:

24 25911. The commission may adopt regulations pertaining to  
25 urea formaldehyde foam insulation materials as are reasonably  
26 necessary to protect the public health and safety. These regulations  
27 may include, but are not limited to, prohibition of the manufacture,  
28 sale, or installation of urea formaldehyde foam insulation,  
29 requirements for safety notices to consumers, certification of  
30 installers, and specification of installation practices. Regulations  
31 adopted pursuant to this section shall be promulgated after public  
32 hearings in accordance with Chapter 3.5 (commencing with Section  
33 11340) of Part 1 of Division 3 of Title 2 of the Government Code.  
34 Any regulation adopted by the commission to prohibit the sale and  
35 installation of urea formaldehyde foam insulation shall be based  
36 upon a record of scientific evidence that demonstrates the need  
37 for the prohibition in order to protect the public health and safety.

38 ~~SEC. 266.~~

39 *SEC. 254.* Section 25912 of the Public Resources Code is  
40 amended to read:

1 25912. Prior to adopting any regulation that causes a prohibition  
2 on the sale and installation of urea formaldehyde foam insulation,  
3 the department shall consult with, and solicit written comments  
4 from, all of the following:

5 (a) Federal and state agencies with appropriate scientific staffs,  
6 including, but not limited to, the State Department of Health  
7 Services, the National Academy of Sciences, the United States  
8 Department of Housing and Urban Development, the United States  
9 Department of Energy, and the United States Consumer Product  
10 Safety Commission.

11 (b) Universities and public and private scientific organizations.

12 ~~SEC. 267.~~

13 *SEC. 255.* Section 25942 of the Public Resources Code is  
14 amended to read:

15 25942. (a) On or before July 1, 1995, the department shall  
16 establish criteria for adopting a statewide home energy rating  
17 program for residential dwellings. The program criteria shall  
18 include, but are not limited to, all of the following elements:

19 (1) Consistent, accurate, and uniform ratings based on a single  
20 statewide rating scale.

21 (2) Reasonable estimates of potential utility bill savings, and  
22 reliable recommendations on cost-effective measures to improve  
23 energy efficiency.

24 (3) Training and certification procedures for home raters and  
25 quality assurance procedures to promote accurate ratings and to  
26 protect consumers.

27 (4) In coordination with home energy rating service organization  
28 data bases, procedures to establish a centralized, publicly  
29 accessible, data base that includes a uniform reporting system for  
30 information on residential dwellings, excluding proprietary  
31 information, needed to facilitate the program. There shall be no  
32 public access to information in the data base concerning specific  
33 dwellings without the owner's or occupant's permission.

34 (5) Labeling procedures that will meet the needs of home buyers,  
35 homeowners, renters, the real estate industry, and mortgage lenders  
36 with an interest in home energy ratings.

37 (b) The department shall adopt the program pursuant to  
38 subdivision (a) in consultation with representatives of the  
39 Department of Real Estate, the Department of Housing and  
40 Community Development, the Public Utilities Commission,

1 investor-owned and municipal utilities, cities and counties, real  
 2 estate licensees, home builders, mortgage lenders, home appraisers  
 3 and inspectors, home energy rating organizations, contractors who  
 4 provide home energy services, consumer groups, and  
 5 environmental groups.

6 (c) On and after January 1, 1996, no home energy rating services  
 7 may be performed in this state unless the services have been  
 8 certified, if a certification program is available, by the department  
 9 to be in compliance with the program criteria specified in  
 10 subdivision (a) and, in addition, are in conformity with any other  
 11 applicable element of the program.

12 (d) On or before July 1, 1996, the department shall consult with  
 13 the agencies and organizations described in subdivision (b), to  
 14 facilitate a public information program to inform homeowners,  
 15 rental property owners, renters, sellers, and others of the existence  
 16 of the statewide home energy rating program adopted by the  
 17 department.

18 (e) The department shall, as part of that biennial report prepared  
 19 pursuant to Section 25302, report on the progress made to  
 20 implement a statewide home energy rating program. The report  
 21 shall include an evaluation of the energy savings attributable to  
 22 the program, and a recommendation concerning which means and  
 23 methods will be most efficient and cost-effective to induce home  
 24 energy ratings for residential dwellings.

25 ~~SEC. 268.~~

26 *SEC. 256.* Section 25967 of the Public Resources Code is  
 27 amended to read:

28 25967. (a) A person who violates this chapter shall be liable  
 29 for a civil penalty not to exceed two thousand five hundred dollars  
 30 (\$2,500) for each violation, which shall be assessed and recovered  
 31 in a civil action brought in the name of the people of the State of  
 32 California by the Attorney General or by any district attorney,  
 33 county counsel, or city attorney in any court of competent  
 34 jurisdiction.

35 (b) If the action is brought by the Attorney General, one-half  
 36 of the penalty collected shall be paid to the treasurer of the county  
 37 in which the judgment was entered, and one-half to the State  
 38 Treasurer. If brought by a district attorney or county counsel, the  
 39 entire amount of penalty collected shall be paid to the treasurer of  
 40 the county in which the judgment was entered. If brought by a city

1 attorney or city prosecutor, one-half of the penalty shall be paid  
2 to the treasurer of the county and one-half to the city.

3 (c) If the action is brought at the request of the department or  
4 the commission, the court shall determine the reasonable expenses  
5 incurred by the department or the commission in the investigation  
6 and prosecution of the action.

7 (d) Before any penalty collected is paid out pursuant to  
8 subdivision (b), the amount of reasonable expenses incurred by  
9 the department or the commission shall be paid to the State  
10 Treasurer.

11 ~~SEC. 269.~~

12 *SEC. 257.* Section 25968 of the Public Resources Code is  
13 amended to read:

14 25968. An inspector appointed or authorized by the department  
15 shall have access to the premises, equipment, materials, partly  
16 finished and finished articles, and records of any person subject  
17 to this chapter.

18 ~~SEC. 270.~~

19 *SEC. 258.* Section 26004 of the Public Resources Code is  
20 amended to read:

21 26004. (a) There is in the state government the California  
22 Alternative Energy and Advanced Transportation Financing  
23 Authority. The authority constitutes a public instrumentality and  
24 the exercise by the authority of powers conferred by this division  
25 is the performance of an essential public function.

26 (b) The authority shall consist of five members, as follows:

27 (1) The Director of Finance.

28 (2) The Secretary of Energy.

29 (3) The President of the Public Utilities Commission.

30 (4) The Controller.

31 (5) The Treasurer, who shall serve as the chairperson of the  
32 authority.

33 (c) The members listed in paragraphs (1) to (5), inclusive, of  
34 subdivision (b) may each designate a deputy or clerk in his or her  
35 agency to act for and represent the member at all meetings of the  
36 authority.

37 (d) The first meeting of the authority shall be convened by the  
38 Treasurer.

1 ~~SEC. 271.~~

2 *SEC. 259.* Section 26011.5 of the Public Resources Code is  
3 amended to read:

4 26011.5. The authority, in consultation with the Department  
5 of Energy, shall establish criteria for the selection of projects to  
6 receive financing assistance from the authority. In the selection of  
7 projects, the authority shall, in accordance with the legislative  
8 intent, provide financial assistance under this division in a manner  
9 consistent with sound financial practice. In developing project  
10 selection criteria, the authority shall consider, but not be limited  
11 to, all of the following:

- 12 (a) The technological feasibility of the projects.
- 13 (b) The economic soundness of the projects and a realistic  
14 expectation that all financial obligations can and will be met by  
15 the participating parties.
- 16 (c) The contribution that the projects can make to a reduction  
17 or more efficient use of fossil fuels.
- 18 (d) The contribution that the project can make toward  
19 diversifying California’s energy resources by fostering renewable  
20 energy systems that can substitute, or preferably eliminate, the  
21 demand for conventional energy fuels.
- 22 (e) Any other such factors that the authority finds significant in  
23 achieving the purposes and objectives of this division.

24 ~~SEC. 272.~~

25 *SEC. 260.* Section 26011.6 of the Public Resources Code is  
26 amended to read:

27 26011.6. (a) The authority shall establish a renewable energy  
28 program to provide financial assistance to public power entities,  
29 independent generators, utilities, or businesses manufacturing  
30 components or systems, or both, to generate new and renewable  
31 energy sources, develop clean and efficient distributed generation,  
32 and demonstrate the economic feasibility of new technologies,  
33 such as solar, photovoltaic, wind, and ultralow-emission equipment.  
34 The authority shall give preference to utility-scale projects that  
35 can be rapidly deployed to provide a significant contribution as a  
36 renewable energy supply. The program established pursuant to  
37 this subdivision shall include financial assistance provided pursuant  
38 to subdivision (g) of Section 26011.

39 (b) The authority shall make every effort to expedite the  
40 operation of renewable energy systems, and shall adopt regulations

1 for purposes of this section and Section 26011.5 as emergency  
2 regulations in accordance with Chapter 3.5 (commencing with  
3 Section 11340) of Part 1 of Division 3 of Title 2 of the Government  
4 Code. For purposes of that Chapter 3.5, including Section 11349.6  
5 of the Government Code, the adoption of the regulations shall be  
6 considered by the Office of Administrative Law to be necessary  
7 for the immediate preservation of the public peace, health and  
8 safety, and general welfare. Notwithstanding the 120-day limitation  
9 specified in subdivision (e) of Section 11346.1 of the Government  
10 Code, the regulations shall be repealed 180 days after their effective  
11 date, unless the authority complies with Sections 11346.2 to  
12 11347.3, inclusive, as provided in subdivision (e) of Section  
13 11346.1 of the Government Code.

14 (c) The authority shall consult with the Department of Energy  
15 regarding the financing of projects to avoid duplication of other  
16 renewable energy projects.

17 (d) The authority shall ensure that any financed project shall  
18 offer its power within California on a long-term contract basis.

19 (e) The authority shall ensure that a financed project is limited  
20 to resources that the authority determines support the state's goals  
21 for the reduction of emissions of greenhouse gases pursuant to the  
22 California Global Warming Solutions Act of 2006 (Division 25.5  
23 (commencing with Section 38500) of the Health and Safety Code).

24 ~~SEC. 273.~~

25 *SEC. 261.* Section 30404 of the Public Resources Code is  
26 amended to read:

27 30404. (a) The commission shall periodically, in the case of  
28 the Department of Energy, the State Board of Forestry and Fire  
29 Protection, the State Water Resources Control Board and the  
30 California regional water quality control boards, the State Air  
31 Resources Board and air pollution control districts and air quality  
32 management districts, the Department of Fish and Game, the  
33 Department of Parks and Recreation, the Department of Boating  
34 and Waterways, the California Geological Survey and the Division  
35 of Oil, Gas, and Geothermal Resources in the Department of  
36 Conservation, and the State Lands Commission, and may, with  
37 respect to any other state agency, submit recommendations  
38 designed to encourage the state agency to carry out its functions  
39 in a manner consistent with this division. The recommendations

1 may include proposed changes in administrative regulations, rules,  
 2 and statutes.

3 (b) Each of those state agencies shall review and consider the  
 4 commission recommendations and shall, within six months from  
 5 the date of their receipt, to the extent that the recommendations  
 6 have not been implemented, report to the Governor and the  
 7 Legislature its action and reasons therefor. The report shall also  
 8 include the state agency’s comments on any legislation that may  
 9 have been proposed by the commission.

10 ~~SEC. 274.~~

11 *SEC. 262.* Section 322 is added to the Public Utilities Code,  
 12 to read:

13 322. (a) Whenever in this chapter a reference is made to the  
 14 “California Energy Resources Conservation and Development  
 15 Commission,” the “State Energy Resources Conservation and  
 16 Development Commission,” or the “Energy Commission,” it means  
 17 the Department of Energy as successor to that entity.

18 (b) Whenever in this chapter a reference is made to the  
 19 Department of Water Resources acting pursuant to Division 27  
 20 (commencing with Section 80000) of the Water Code, it includes  
 21 the Department of Energy as the successor to the Department of  
 22 Water Resources for this purpose.

23 ~~SEC. 275.~~

24 *SEC. 263.* Section 332.1 of the Public Utilities Code is amended  
 25 to read:

26 332.1. (a) (1) It is the intent of the Legislature to enact Item  
 27 1 (revised) on the commission’s August 21, 2000 agenda, entitled  
 28 “Opinion Modifying Decision (D.) D.00-06-034 and D.00-08-021  
 29 to Regarding Interim Rate Caps for San Diego Gas and Electric  
 30 Company,” as modified below.

31 (2) It is also the intent of the Legislature that to the extent that  
 32 the Federal Energy Regulatory Commission orders refunds to  
 33 electrical corporations pursuant to their findings, the commission  
 34 shall ensure that any refunds are returned to customers.

35 (b) The commission shall establish a ceiling of six and  
 36 five-tenths cents (\$0.065) per kilowatthour on the energy  
 37 component of electric bills for electricity supplied to residential,  
 38 small commercial, and street lighting customers by the San Diego  
 39 Gas and Electric Company, through December 31, 2002, retroactive  
 40 to June 1, 2000. If the commission finds it in the public interest,

1 this ceiling may be extended through December 2003 and may be  
2 adjusted as provided in subdivision (d).

3 (c) The commission shall establish an accounting procedure to  
4 track and recover reasonable and prudent costs of providing electric  
5 energy to retail customers unrecovered through retail bills due to  
6 the application of the ceiling provided for in subdivision (b). The  
7 accounting procedure shall utilize revenues associated with sales  
8 of energy from utility-owned or managed generation assets to  
9 offset an undercollection, if undercollection occurs. The accounting  
10 procedure shall be reviewed periodically by the commission, but  
11 not less frequently than semiannually. The commission may utilize  
12 an existing proceeding to perform the review. The accounting  
13 procedure and review shall provide a reasonable opportunity for  
14 San Diego Gas and Electric Company to recover its reasonable  
15 and prudent costs of service over a reasonable period of time.

16 (d) If the commission determines that it is in the public interest  
17 to do so, the commission, after the date of the completion of the  
18 proceeding described in subdivision (g), may adjust the ceiling  
19 from the level specified in subdivision (b), and may adjust the  
20 frozen rate from the levels specified in subdivision (f), consistent  
21 with the Legislature's intent to provide substantial protections for  
22 customers of the San Diego Gas and Electric Company and their  
23 interest in just and reasonable rates and adequate service.

24 (e) For purposes of this section, "small commercial customer"  
25 includes, but is not limited to, all San Diego Gas and Electric  
26 Company accounts on Rate Schedule A of the San Diego Gas and  
27 Electric Company, all accounts of customers who are "general  
28 acute care hospitals," as defined in Section 1250 of the Health and  
29 Safety Code, all San Diego Gas and Electric Company accounts  
30 of customers who are public or private schools for pupils in  
31 kindergarten or any of grades 1 to 12, inclusive, and all accounts  
32 on Rate Schedule AL-TOU under 100 kilowatts.

33 (f) The commission shall establish an initial frozen rate of six  
34 and five-tenths cents (\$0.065) per kilowatthour on the energy  
35 component of electric bills for electricity supplied to all customers  
36 by the San Diego Gas and Electric Company not subject to  
37 subdivision (b), for the time period ending with the end of the rate  
38 freeze for the Pacific Gas and Electric Company and the Southern  
39 California Edison Company pursuant to Section 368, retroactive  
40 to February 7, 2001. The commission shall consider the comparable

1 energy components of rates for comparable customer classes served  
2 by the Pacific Gas and Electric Company and the Southern  
3 California Edison Company and, if it determines it to be in the  
4 public interest, the commission may adjust this frozen rate, and  
5 may do so, retroactive to the date that rate increases took effect  
6 for customers of Pacific Gas and Electric Company and Southern  
7 California Edison Company pursuant to the commission's March  
8 27, 2001, decision. The commission shall determine the Fixed  
9 Department of Water Resources Set-Aside pursuant to Section  
10 360.5 for customers subject to this section, reflecting a retail rate  
11 consistent with the rate for the energy component of electric bills  
12 as determined in this subdivision, in place of the retail rate in effect  
13 on January 5, 2001. This section shall be construed to modify the  
14 payment provisions, but may not be construed to modify the  
15 electric procurement obligations of the Department of Water  
16 Resources, pursuant to any contract or agreement in accordance  
17 with Division 27 (commencing with Section 80000) of the Water  
18 Code, and in effect as of February 7, 2001, between the Department  
19 of Water Resources and San Diego Gas and Electric Company.

20 (g) The commission shall institute a proceeding to examine the  
21 prudence and reasonableness of the San Diego Gas and Electric  
22 Company in the procurement of wholesale energy on behalf of its  
23 customers, for a period beginning, at the latest, on June 1, 2000.  
24 If the commission finds that San Diego Gas and Electric Company  
25 acted imprudently or unreasonably, the commission shall issue  
26 orders that it determines to be appropriate affecting the retail rates  
27 of San Diego Gas and Electric Company customers including, but  
28 not limited to, refunds.

29 (h) This section does not limit the authority of the Department  
30 of Water Resources, or its successor, pursuant to Division 27  
31 (commencing with Section 80000) of the Water Code.

32 ~~SEC. 276.~~

33 ~~SEC. 264.~~ Article 2 (commencing with Section 334) of Chapter  
34 2.3 of Part 1 of Division 1 of the Public Utilities Code is repealed.

35 ~~SEC. 277.~~

36 ~~SEC. 265.~~ Section 345.1 is added to the Public Utilities Code,  
37 to read:

38 345.1. (a) The Independent System Operator governing board  
39 shall be composed of a five-member independent governing board  
40 of directors appointed by the Governor and subject to confirmation

1 by the Senate. Any reference in this chapter or in any other  
2 provision of law to the Independent System Operator governing  
3 board means the independent governing board appointed under  
4 this subdivision.

5 (b) A member of the independent governing board appointed  
6 under subdivision (a) may not be affiliated with any actual or  
7 potential participant in any market administered by the Independent  
8 System Operator.

9 (c) (1) All appointments shall be for three-year terms.

10 (2) There is no limit on the number of terms that may be served  
11 by any member.

12 (d) The Office of Energy Market Oversight shall require the  
13 articles of incorporation and bylaws of the Independent System  
14 Operator to be maintained in accordance with this section, and  
15 shall make filings with the Federal Energy Regulatory Commission  
16 as the office determines to be necessary.

17 (e) For the purposes of the initial appointments to the  
18 Independent System Operator governing board, as provided in  
19 subdivision (a), the Governor shall appoint one member to a  
20 one-year term, two members to a two-year term, and two members  
21 to a three-year term.

22 ~~SEC. 278.~~

23 *SEC. 266.* Section 345.2 is added to the Public Utilities Code,  
24 to read:

25 345.2. (a) The Independent System Operator bylaws shall  
26 contain provisions that identify those matters specified in  
27 subdivision (b) of Section 25227.6 of the Public Resources Code  
28 as matters within state jurisdiction. The bylaws shall also contain  
29 provisions that state that California's bylaws approval function  
30 with respect to the matters specified in subdivision (b) of Section  
31 25227.6 of the Public Resources Code shall not preclude the  
32 Federal Energy Regulatory Commission from taking any action  
33 necessary to address undue discrimination or other violations of  
34 the Federal Power Act (16 U.S.C. Sec. 791a et seq.) or to exercise  
35 any other commission responsibility under the Federal Power Act.  
36 In taking this action, the Federal Energy Regulatory Commission  
37 shall give due respect to California's jurisdictional interests in the  
38 functions of the Independent System Operator and to attempt to  
39 accommodate state interests to the extent those interests are not  
40 inconsistent with the Federal Energy Regulatory Commission's

1 statutory responsibilities. The bylaws shall state that any future  
2 agreement regarding the apportionment of the Independent System  
3 Operator board appointment function among participating states  
4 associated with the expansion of the Independent System Operator  
5 into a multistate entity shall be filed with the Federal Energy  
6 Regulatory Commission pursuant to Section 205 of the Federal  
7 Power Act (16 U.S.C. Sec. 824d).

8 (b) Any necessary bylaw changes to implement the provisions  
9 of Section 345.1 or subdivision (a) of this section, or Section  
10 25227.1, 25227.5, or 25227.6 of the Public Resources Code, or  
11 changes required pursuant to an agreement as contemplated by  
12 subdivision (a) of this section with a participating state for a  
13 regional organization, shall be effective upon approval of the  
14 Independent System Operator governing board and the Office of  
15 Energy Market Oversight and acceptance for filing by the Federal  
16 Energy Regulatory Commission.

17 ~~SEC. 279.~~

18 ~~SEC. 267.~~ Section 346 of the Public Utilities Code is repealed.

19 ~~SEC. 280.~~

20 ~~SEC. 268.~~ Section 348 of the Public Utilities Code is amended  
21 to read:

22 348. The Independent System Operator shall adopt inspection,  
23 maintenance, repair, and replacement standards for the transmission  
24 facilities under its control no later than September 30, 1997. The  
25 standards, which shall be performance or prescriptive standards,  
26 or both, as appropriate, for each substantial type of transmission  
27 equipment or facility, shall provide for high quality, safe, and  
28 reliable service. In adopting its standards, the Independent System  
29 Operator shall consider: cost, local geography and weather,  
30 applicable codes, national electric industry practices, sound  
31 engineering judgment, and experience. The Independent System  
32 Operator shall also adopt standards for reliability, and safety during  
33 periods of emergency and disaster. The Independent System  
34 Operator shall report to the Office of Energy Market Oversight,  
35 at the times that the office may specify, on the development and  
36 implementation of the standards in relation to facilities under the  
37 operational control of the Independent System Operator. The  
38 Independent System Operator shall require each transmission  
39 facility owner or operator to report annually on its compliance

1 with the standards. That report shall be made available to the  
2 public.

3 ~~SEC. 281.~~

4 *SEC. 269.* Section 350 of the Public Utilities Code is repealed.

5 ~~SEC. 283.~~

6 *SEC. 270.* Section 353.7 of the Public Utilities Code is amended  
7 to read:

8 353.7. Notwithstanding Section 353.3, this article does not  
9 result in any exemption from reasonable interconnection charges,  
10 lead to any reduction in contributions by each customer class to  
11 public purpose programs funded under Section 399.8, or relieve  
12 any customer of any obligation determined by the commission to  
13 result from participation in the purchase of power through the  
14 Department of Water Resources, or its successor, the Department  
15 of Energy, pursuant to Division 27 (commencing with Section  
16 80000) of the Water Code.

17 ~~SEC. 284.~~

18 *SEC. 271.* Section 360 of the Public Utilities Code is repealed.

19 ~~SEC. 285.~~

20 *SEC. 272.* Section 365 of the Public Utilities Code is repealed.

21 ~~SEC. 286.~~

22 *SEC. 273.* Section 366.1 of the Public Utilities Code is amended  
23 to read:

24 366.1. (a) As used in this section, the following terms have  
25 the following meanings:

26 (1) “Department” means the Department of Water Resources,  
27 or its successor, the Department of Energy, with respect to its power  
28 program described in Chapter 2 (commencing with Section 80100)  
29 of Division 27 of the Water Code.

30 (2) “Existing project participant” means a city with rights and  
31 obligations to the Magnolia Power Project under the Magnolia  
32 Power Project Planning Agreement, dated May 1, 2001.

33 (3) “Magnolia Power Project” means a proposed natural  
34 gas-fired electric generating facility to be located at an existing  
35 site in Burbank and for which an application for certification has  
36 been filed with the State Energy Resources Conservation and  
37 Development Act (Docket No. 00-SIT-1) and deemed data adequate  
38 pursuant to the expedited six-month licensing process established  
39 under Section 25550 of the Public Resources Code.

1 (b) Notwithstanding Section 80110 of the Water Code or  
2 Commission Decision 01-09-060, if the Magnolia Power Project  
3 has been constructed and is otherwise capable of beginning  
4 deliveries of electricity to the existing project participants, an  
5 existing project participant may serve as a community aggregator  
6 on behalf of all retail end-use customers within its jurisdiction.

7 (c) Subdivision (b) shall not become operative until both of the  
8 following occur:

9 (1) The commission implements a cost-recovery mechanism,  
10 consistent with subdivision (d), that is applicable to customers that  
11 elected to purchase electricity from an alternate provider between  
12 February 1, 2001, and the effective date of the act adding this  
13 section.

14 (2) The commission submits a report certifying its satisfaction  
15 of paragraph (1) to the Senate Energy, Utilities and  
16 Communications Committee, or its successor, and the Assembly  
17 Committee on Utilities and Commerce, or its successor.

18 (d) (1) It is the intent of the Legislature that each retail end-use  
19 customer that has purchased power from an electrical corporation  
20 on or after February 1, 2001, should bear a fair share of the  
21 department's power purchase costs, as well as power purchase  
22 contract obligations incurred as of January 1, 2003, that are  
23 recoverable from electrical corporation customers in  
24 commission-approved rates. It is the further intent of the  
25 Legislature to prevent any shifting of recoverable costs between  
26 customers.

27 (2) The Legislature finds and declares that the provisions in this  
28 subdivision are consistent with the requirements of Section 360.5  
29 and Division 27 (commencing with Section 80000) of the Water  
30 Code, and are therefore declaratory of existing law.

31 (e) A retail end-use customer purchasing power from a  
32 community aggregator pursuant to subdivision (b) shall reimburse  
33 the department for all of the following:

34 (1) A charge equivalent to the charge that would otherwise be  
35 imposed on the customer by the commission to recover bond  
36 related costs pursuant to an agreement between the commission  
37 and the department pursuant to Section 80110 of the Water Code,  
38 that charge shall be payable until all obligations of the department  
39 pursuant to Division 27 of the Water Code are fully paid or  
40 otherwise discharged.

1 (2) The costs of the department, equal to the share of the  
2 department's estimated net unavoidable power purchase contract  
3 costs attributable to the customer, as determined by the  
4 commission, for the period commencing with the customer's  
5 purchases of electricity from a community aggregator, through the  
6 expiration of all then existing power purchase contracts entered  
7 into by the department.

8 (f) A retail end-use customer purchasing power from a  
9 community aggregator pursuant to subdivision (b) shall reimburse  
10 the electrical corporation that previously served the customer for  
11 all of the following:

12 (1) The electrical corporation's unrecovered past  
13 undercollections, including all financing costs attributable to that  
14 customer, that the commission lawfully determines may be  
15 recovered in rates.

16 (2) The costs of the electrical corporation recoverable in  
17 commission-approved rates, equal to the share of the electrical  
18 corporation's estimated net unavoidable power purchase contract  
19 costs attributable to the customer, as determined by the  
20 commission, for the period commencing with the customer's  
21 purchases of electricity from the community aggregator, through  
22 the expiration of all then existing power purchase contracts entered  
23 into by the electrical corporation.

24 (g) (1) A charge or cost imposed pursuant to subdivision (e),  
25 and all revenues received to pay the charge or cost, shall be the  
26 property of the department. A charge or cost imposed pursuant to  
27 subdivision (f), and all revenues received to pay the charge or cost,  
28 shall be the property of the particular electrical corporation. The  
29 commission shall establish mechanisms, including agreements  
30 with, or orders with respect to, electrical corporations necessary  
31 to assure that the revenues received to pay a charge or cost payable  
32 pursuant to this section are promptly remitted to the party entitled  
33 to those revenues.

34 (2) A charge or cost imposed pursuant to this section shall be  
35 nonbypassable.

36 ~~SEC. 287.~~

37 *SEC. 274.* Section 366.2 of the Public Utilities Code is amended  
38 to read:

1 366.2. (a) (1) Customers shall be entitled to aggregate their  
2 electric loads as members of their local community with  
3 community choice aggregators.

4 (2) Customers may aggregate their loads through a public  
5 process with community choice aggregators, if each customer is  
6 given an opportunity to opt out of their community's aggregation  
7 program.

8 (3) If a customer opts out of a community choice aggregator's  
9 program, or has no community choice program available, that  
10 customer shall have the right to continue to be served by the  
11 existing electrical corporation or its successor in interest.

12 (b) If a public agency seeks to serve as a community choice  
13 aggregator, it shall offer the opportunity to purchase electricity to  
14 all residential customers within its jurisdiction.

15 (c) (1) Notwithstanding Section 366, a community choice  
16 aggregator is hereby authorized to aggregate the electrical load of  
17 interested electricity consumers within its boundaries to reduce  
18 transaction costs to consumers, provide consumer protections, and  
19 leverage the negotiation of contracts. However, the community  
20 choice aggregator may not aggregate electrical load if that load is  
21 served by a local publicly owned electric utility. A community  
22 choice aggregator may group retail electricity customers to solicit  
23 bids, broker, and contract for electricity and energy services for  
24 those customers. The community choice aggregator may enter into  
25 agreements for services to facilitate the sale and purchase of  
26 electricity and other related services. Those service agreements  
27 may be entered into by a single city or county, a city and county,  
28 or by a group of cities, cities and counties, or counties.

29 (2) Under community choice aggregation, customer participation  
30 may not require a positive written declaration, but all customers  
31 shall be informed of their right to opt out of the community choice  
32 aggregation program. If no negative declaration is made by a  
33 customer, that customer shall be served through the community  
34 choice aggregation program.

35 (3) A community choice aggregator establishing electrical load  
36 aggregation pursuant to this section shall develop an  
37 implementation plan detailing the process and consequences of  
38 aggregation. The implementation plan, and any subsequent changes  
39 to it, shall be considered and adopted at a duly noticed public  
40 hearing. The implementation plan shall contain all of the following:

- 1 (A) An organizational structure of the program, its operations,  
2 and its funding.
- 3 (B) Ratesetting and other costs to participants.
- 4 (C) Provisions for disclosure and due process in setting rates  
5 and allocating costs among participants.
- 6 (D) The methods for entering and terminating agreements with  
7 other entities.
- 8 (E) The rights and responsibilities of program participants,  
9 including, but not limited to, consumer protection procedures,  
10 credit issues, and shutoff procedures.
- 11 (F) Termination of the program.
- 12 (G) A description of the third parties that will be supplying  
13 electricity under the program, including, but not limited to,  
14 information about financial, technical, and operational capabilities.
- 15 (4) A community choice aggregator establishing electrical load  
16 aggregation shall prepare a statement of intent with the  
17 implementation plan. Any community choice load aggregation  
18 established pursuant to this section shall provide for the following:  
19 (A) Universal access.  
20 (B) Reliability.  
21 (C) Equitable treatment of all classes of customers.  
22 (D) Any requirements established by state law or by the  
23 commission concerning aggregated service.
- 24 (5) In order to determine the cost-recovery mechanism to be  
25 imposed on the community choice aggregator pursuant to  
26 subdivisions (d), (e), and (f) that shall be paid by the customers of  
27 the community choice aggregator to prevent shifting of costs, the  
28 community choice aggregator shall file the implementation plan  
29 with the commission, and any other information requested by the  
30 commission that the commission determines is necessary to develop  
31 the cost-recovery mechanism in subdivisions (d), (e), and (f).
- 32 (6) The commission shall notify any electrical corporation  
33 serving the customers proposed for aggregation that an  
34 implementation plan initiating community choice aggregation has  
35 been filed, within 10 days of the filing.
- 36 (7) Within 90 days after the community choice aggregator  
37 establishing load aggregation files its implementation plan, the  
38 commission shall certify that it has received the implementation  
39 plan, including any additional information necessary to determine  
40 a cost-recovery mechanism. After certification of receipt of the

1 implementation plan and any additional information requested,  
 2 the commission shall then provide the community choice  
 3 aggregator with its findings regarding any cost recovery that must  
 4 be paid by customers of the community choice aggregator to  
 5 prevent a shifting of costs as provided for in subdivisions (d), (e),  
 6 and (f).

7 (8) No entity proposing community choice aggregation shall  
 8 act to furnish electricity to electricity consumers within its  
 9 boundaries until the commission determines the cost-recovery that  
 10 must be paid by the customers of that proposed community choice  
 11 aggregation program, as provided for in subdivisions (d), (e), and  
 12 (f). The commission shall designate the earliest possible effective  
 13 date for implementation of a community choice aggregation  
 14 program, taking into consideration the impact on any annual  
 15 procurement plan of the electrical corporation that has been  
 16 approved by the commission.

17 (9) All electrical corporations shall cooperate fully with any  
 18 community choice aggregators that investigate, pursue, or  
 19 implement community choice aggregation programs. Cooperation  
 20 shall include providing the entities with appropriate billing and  
 21 electrical load data, including, but not limited to, data detailing  
 22 electricity needs and patterns of usage, as determined by the  
 23 commission, and in accordance with procedures established by  
 24 the commission. Electrical corporations shall continue to provide  
 25 all metering, billing, collection, and customer service to retail  
 26 customers that participate in community choice aggregation  
 27 programs. Bills sent by the electrical corporation to retail customers  
 28 shall identify the community choice aggregator as providing the  
 29 electrical energy component of the bill. The commission shall  
 30 determine the terms and conditions under which the electrical  
 31 corporation provides services to community choice aggregators  
 32 and retail customers.

33 (10) (A) A city, county, or city and county that elects to  
 34 implement a community choice aggregation program within its  
 35 jurisdiction pursuant to this chapter shall do so by ordinance.

36 (B) Two or more cities, counties, or cities and counties may  
 37 participate as a group in a community choice aggregation pursuant  
 38 to this chapter, through a joint powers agency established pursuant  
 39 to Chapter 5 (commencing with Section 6500) of Division 7 of

1 Title 1 of the Government Code, if each entity adopts an ordinance  
2 pursuant to subparagraph (A).

3 (11) Following adoption of aggregation through the ordinance  
4 described in paragraph (10), the program shall allow any retail  
5 customer to opt out and to continue to be served as a bundled  
6 service customer by the existing electrical corporation, or its  
7 successor in interest. Delivery services shall be provided at the  
8 same rates, terms, and conditions, as approved by the commission,  
9 for community choice aggregation customers and customers that  
10 have entered into a direct transaction where applicable, as  
11 determined by the commission. Once enrolled in the aggregated  
12 entity, any ratepayer that chooses to opt out within 60 days or two  
13 billing cycles of the date of enrollment may do so without penalty  
14 and shall be entitled to receive default service pursuant to paragraph  
15 (3) of subdivision (a). Customers that return to the electrical  
16 corporation for procurement services shall be subject to the same  
17 terms and conditions as are applicable to other returning direct  
18 access customers from the same class, as determined by the  
19 commission, as authorized by the commission pursuant to this  
20 code or any other provision of law. Any reentry fees to be imposed  
21 after the opt-out period specified in this paragraph, shall be  
22 approved by the commission and shall reflect the cost of reentry.  
23 The commission shall exclude any amounts previously determined  
24 and paid pursuant to subdivisions (d), (e), and (f) from the cost of  
25 reentry.

26 (12) Nothing in this section shall be construed as authorizing  
27 any city or any community choice retail load aggregator to restrict  
28 the ability of retail electricity customers to obtain or receive service  
29 from any authorized electric service provider in a manner consistent  
30 with law.

31 (13) (A) The community choice aggregator shall fully inform  
32 participating customers at least twice within two calendar months,  
33 or 60 days, in advance of the date of commencing automatic  
34 enrollment. Notifications may occur concurrently with billing  
35 cycles. Following enrollment, the aggregated entity shall fully  
36 inform participating customers for not less than two consecutive  
37 billing cycles. Notification may include, but is not limited to, direct  
38 mailings to customers, or inserts in water, sewer, or other utility  
39 bills. Any notification shall inform customers of both of the  
40 following:

1 (i) That they are to be automatically enrolled and that the  
2 customer has the right to opt out of the community choice  
3 aggregator without penalty.

4 (ii) The terms and conditions of the services offered.

5 (B) The community choice aggregator may request the  
6 commission to approve and order the electrical corporation to  
7 provide the notification required in subparagraph (A). If the  
8 commission orders the electrical corporation to send one or more  
9 of the notifications required pursuant to subparagraph (A) in the  
10 electrical corporation’s normally scheduled monthly billing  
11 process, the electrical corporation shall be entitled to recover from  
12 the community choice aggregator all reasonable incremental costs  
13 it incurs related to the notification or notifications. The electrical  
14 corporation shall fully cooperate with the community choice  
15 aggregator in determining the feasibility and costs associated with  
16 using the electrical corporation’s normally scheduled monthly  
17 billing process to provide one or more of the notifications required  
18 pursuant to subparagraph (A).

19 (C) Each notification shall also include a mechanism by which  
20 a ratepayer may opt out of community choice aggregated service.  
21 The opt out may take the form of a self-addressed return postcard  
22 indicating the customer’s election to remain with, or return to,  
23 electrical energy service provided by the electrical corporation, or  
24 another straightforward means by which the customer may elect  
25 to derive electrical energy service through the electrical corporation  
26 providing service in the area.

27 (14) The community choice aggregator shall register with the  
28 commission, which may require additional information to ensure  
29 compliance with basic consumer protection rules and other  
30 procedural matters.

31 (15) Once the community choice aggregator’s contract is signed,  
32 the community choice aggregator shall notify the applicable  
33 electrical corporation that community choice service will  
34 commence within 30 days.

35 (16) Once notified of a community choice aggregator program,  
36 the electrical corporation shall transfer all applicable accounts to  
37 the new supplier within a 30-day period from the date of the close  
38 of their normally scheduled monthly metering and billing process.

39 (17) An electrical corporation shall recover from the community  
40 choice aggregator any costs reasonably attributable to the

1 community choice aggregator, as determined by the commission,  
2 of implementing this section, including, but not limited to, all  
3 business and information system changes, except for  
4 transaction-based costs as described in this paragraph. Any costs  
5 not reasonably attributable to a community choice aggregator shall  
6 be recovered from ratepayers, as determined by the commission.  
7 All reasonable transaction-based costs of notices, billing, metering,  
8 collections, and customer communications or other services  
9 provided to an aggregator or its customers shall be recovered from  
10 the aggregator or its customers on terms and at rates to be approved  
11 by the commission.

12 (18) At the request and expense of any community choice  
13 aggregator, electrical corporations shall install, maintain and  
14 calibrate metering devices at mutually agreeable locations within  
15 or adjacent to the community aggregator's political boundaries.  
16 The electrical corporation shall read the metering devices and  
17 provide the data collected to the community aggregator at the  
18 aggregator's expense. To the extent that the community aggregator  
19 requests a metering location that would require alteration or  
20 modification of a circuit, the electrical corporation shall only be  
21 required to alter or modify a circuit if such alteration or  
22 modification does not compromise the safety, reliability or  
23 operational flexibility of the electrical corporation's facilities. All  
24 costs incurred to modify circuits pursuant to this paragraph, shall  
25 be borne by the community aggregator.

26 (d) (1) It is the intent of the Legislature that each retail end-use  
27 customer that has purchased power from an electrical corporation  
28 on or after February 1, 2001, should bear a fair share of the  
29 electricity purchase costs of the Department of Water Resources,  
30 or its successor, the Department of Energy, as well as electricity  
31 purchase contract obligations incurred as of the effective date of  
32 the act adding this section, that are recoverable from electrical  
33 corporation customers in commission-approved rates. It is further  
34 the intent of the Legislature to prevent any shifting of recoverable  
35 costs between customers.

36 (2) The Legislature finds and declares that this subdivision is  
37 consistent with the requirements of Division 27 (commencing with  
38 Section 80000) of the Water Code and Section 360.5, and is  
39 therefore declaratory of existing law.

1 (e) A retail end-use customer that purchases electricity from a  
 2 community choice aggregator pursuant to this section shall pay  
 3 both of the following:

4 (1) A charge equivalent to the charges that would otherwise be  
 5 imposed on the customer by the commission to recover bond  
 6 related costs pursuant to any agreement between the commission  
 7 and the Department of Water Resources, or its successor, the  
 8 Department of Energy, pursuant to Section 80110 of the Water  
 9 Code, which charge shall be payable until any obligations of the  
 10 Department of Water Resources pursuant to Division 27  
 11 (commencing with Section 80000) of the Water Code are fully  
 12 paid or otherwise discharged.

13 (2) Any additional costs of the Department of Water Resources,  
 14 or its successor, the Department of Energy, equal to the customer's  
 15 proportionate share of the Department of Water Resources'  
 16 estimated net unavoidable electricity purchase contract costs as  
 17 determined by the commission, for the period commencing with  
 18 the customer's purchases of electricity from the community choice  
 19 aggregator, through the expiration of all then existing electricity  
 20 purchase contracts entered into by the Department of Water  
 21 Resources, or its successor.

22 (f) A retail end-use customer purchasing electricity from a  
 23 community choice aggregator pursuant to this section shall  
 24 reimburse the electrical corporation that previously served the  
 25 customer for all of the following:

26 (1) The electrical corporation's unrecovered past  
 27 undercollections for electricity purchases, including any financing  
 28 costs, attributable to that customer, that the commission lawfully  
 29 determines may be recovered in rates.

30 (2) Any additional costs of the electrical corporation recoverable  
 31 in commission-approved rates, equal to the share of the electrical  
 32 corporation's estimated net unavoidable electricity purchase  
 33 contract costs attributable to the customer, as determined by the  
 34 commission, for the period commencing with the customer's  
 35 purchases of electricity from the community choice aggregator,  
 36 through the expiration of all then existing electricity purchase  
 37 contracts entered into by the electrical corporation.

38 (g) (1) Any charges imposed pursuant to subdivision (e) shall  
 39 be the property of the Department of Water Resources. Any charges  
 40 imposed pursuant to subdivision (f) shall be the property of the

1 electrical corporation. The commission shall establish mechanisms,  
2 including agreements with, or orders with respect to, electrical  
3 corporations necessary to ensure that charges payable pursuant to  
4 this section shall be promptly remitted to the party entitled to  
5 payment.

6 (2) Charges imposed pursuant to subdivisions (d), (e), and (f)  
7 shall be nonbypassable.

8 (h) Notwithstanding Section 80110 of the Water Code, the  
9 commission shall authorize community choice aggregation only  
10 if the commission imposes a cost-recovery mechanism pursuant  
11 to subdivisions (d), (e), (f), and (g). Except as provided by this  
12 subdivision, this section shall not alter the suspension by the  
13 commission of direct purchases of electricity from alternate  
14 providers other than by community choice aggregators, pursuant  
15 to Section 80110 of the Water Code.

16 (i) (1) The commission shall not authorize community choice  
17 aggregation until it implements a cost-recovery mechanism,  
18 consistent with subdivisions (d), (e), and (f), that is applicable to  
19 customers that elected to purchase electricity from an alternate  
20 provider between February 1, 2001, and January 1, 2003.

21 (2) The commission shall not authorize community choice  
22 aggregation until it submits a report certifying compliance with  
23 paragraph (1) to the Senate Energy, Utilities and Communications  
24 Committee, or its successor, and the Assembly Committee on  
25 Utilities and Commerce, or its successor.

26 (3) The commission shall not authorize community choice  
27 aggregation until it has adopted rules for implementing community  
28 choice aggregation.

29 (j) The commission shall prepare and submit to the Legislature,  
30 on or before January 1, 2006, a report regarding the number of  
31 community choices aggregations, the number of customers served  
32 by community choice aggregations, third party suppliers to  
33 community choice aggregations, compliance with this section, and  
34 the overall effectiveness of community choice aggregation  
35 programs.

36 ~~SEC. 288.~~

37 *SEC. 275.* Section 384 of the Public Utilities Code is amended  
38 to read:

39 384. (a) Funds transferred to the Department of Energy  
40 pursuant to this article for purposes of public interest research,

1 development, and demonstration shall be transferred to the Public  
2 Interest Research, Development, and Demonstration Fund, which  
3 is hereby created in the State Treasury. The fund is a trust fund  
4 and shall contain money from all interest, repayments,  
5 disencumbrances, royalties, and any other proceeds appropriated,  
6 transferred, or otherwise received for purposes pertaining to public  
7 interest research, development, and demonstration. Any  
8 appropriations that are made from the fund shall have an  
9 encumbrance period of not longer than two years, and a liquidation  
10 period of not longer than four years.

11 (b) Funds deposited in the Public Interest Research,  
12 Development, and Demonstration Fund may be expended for  
13 projects that serve the energy needs of both stationary and  
14 transportation purposes if the research provides an electricity  
15 ratepayer benefit.

16 (c) The Department of Energy shall report annually to the  
17 appropriate budget committees of the Legislature on any  
18 encumbrances or liquidations that are outstanding at the time the  
19 commission's budget is submitted to the Legislature for review.

20 ~~SEC. 289:~~

21 *SEC. 276.* Section 398.2 of the Public Utilities Code is amended  
22 to read:

23 398.2. The definitions set forth in this section shall govern the  
24 construction of this article.

25 (a) "System operator" means the Independent System Operator  
26 with responsibility for the efficient use and reliable operation of  
27 the transmission grid, as provided by Section 345, or a local  
28 publicly owned electric utility that does not utilize the Independent  
29 System Operator.

30 (b) "Specific purchases" means electricity transactions that are  
31 traceable to specific generation sources by any auditable contract  
32 trail or equivalent, such as a tradable commodity system, that  
33 provides commercial verification that the electricity source claimed  
34 has been sold once and only once to a retail consumer. Retail  
35 suppliers may rely on annual data to meet this requirement, rather  
36 than hour-by-hour matching of loads and resources.

37 (c) "Net system power" means the mix of electricity fuel source  
38 types established by the Department of Energy representing the  
39 sources of electricity consumed in California that are not disclosed  
40 as specific purchases pursuant to Section 398.4.

1     ~~SEC. 290.~~

2     *SEC. 277.* Section 398.3 of the Public Utilities Code is amended  
3 to read:

4     398.3. (a) Beginning January 1, 1998, or as soon as practicable  
5 thereafter, each generator that provides meter data to a system  
6 operator shall report to the system operator electricity generated  
7 in kilowatthours by hour by generator, the fuel type or fuel types  
8 and fuel consumption by fuel type by month on an historical  
9 recorded quarterly basis. Facilities using only one fuel type may  
10 satisfy this requirement by reporting fuel type only. With regard  
11 to any facility using more than one fuel type, reports shall reflect  
12 the fuel consumed as a percentage of electricity generation.

13     (b) The Department of Energy shall have authorization to access  
14 the electricity generation data in kilowatthours by hour for each  
15 facility that provides meter data to the system operator, and the  
16 fuel type or fuel types.

17     (c) With regard to out-of-state generation, the Department of  
18 Energy shall have authorization to access the electricity generation  
19 data in kilowatthours by hour at the point at which out-of-state  
20 generation is metered, to the extent the information has been  
21 submitted to a system operator.

22     (d) Trade secrets as defined in subdivision (d) of Section 3426.1  
23 of the Civil Code contained in the information provided to the  
24 system operators pursuant to this section shall be treated as  
25 confidential. These data may be disclosed only by the system  
26 operators and only by authorization of the generator except that  
27 the Department of Energy shall have authorization to access these  
28 data, shall consider all these data to be trade secrets, and shall only  
29 release these data in an aggregated form such that trade secrets  
30 cannot be discerned.

31     ~~SEC. 291.~~

32     *SEC. 278.* Section 398.5 of the Public Utilities Code is amended  
33 to read:

34     398.5. (a) Retail suppliers that disclose specific purchases  
35 pursuant to Section 398.4 shall report on March 1, 1999, and  
36 annually thereafter, to the Department of Energy, for each  
37 electricity offering, for the previous calendar year each of the  
38 following:

1 (1) The kilowatthours purchased, by generator and fuel type  
2 during the previous calendar year, consistent with the meter data,  
3 including losses, reported to the system operator.

4 (2) For each electricity offering the kilowatthours sold at retail.

5 (3) For each electricity offering the disclosures made to  
6 consumers pursuant to Section 398.4.

7 (b) Information submitted to the Department of Energy pursuant  
8 to this section that is a trade secret as defined in subdivision (d)  
9 of Section 3426.1 of the Civil Code shall not be released except  
10 in an aggregated form such that trade secrets cannot be discerned.

11 (c) On or before January 1, 1998, the Department of Energy  
12 shall specify guidelines and standard formats, based on the  
13 requirements of this article and subject to public hearing, for the  
14 submittal of information pursuant to this article.

15 (d) In developing the rules and procedures specified in this  
16 section, the Department of Energy shall seek to minimize the  
17 reporting burden and cost of reporting that it imposes on retail  
18 suppliers.

19 (e) On or before October 15, 1999, and annually thereafter, the  
20 Department of Energy shall issue a report comparing information  
21 available pursuant to Section 398.3 with information submitted  
22 by retail suppliers pursuant to this section, and with information  
23 disclosed to consumers pursuant to Section 398.4. This report shall  
24 be forwarded to the California Public Utilities Commission.

25 (f) Beginning April 15, 1999, and annually thereafter, the  
26 Department of Energy shall issue a report calculating net system  
27 power. The department will establish the generation mix for net  
28 generation imports delivered at interface points and metered by  
29 the system operators. The department shall issue an initial report  
30 calculating preliminary net system power for calendar year 1997  
31 on or before January 1, 1998. This report shall be updated on or  
32 before October 15, 1998.

33 (g) This section does not apply to generators providing electric  
34 service onsite, under an over-the-fence transaction as described in  
35 Section 218, or to an affiliate or affiliates, as defined in subdivision  
36 (a) of Section 372.

37 (h) The Department of Energy may verify the veracity of  
38 environmental claims made by retail suppliers.

1 ~~SEC. 292.~~

2 *SEC. 279.* Section 399.2.5 of the Public Utilities Code is  
3 amended to read:

4 399.2.5. (a) Notwithstanding any other provision in Sections  
5 1001 to 1013, inclusive, an application of an electrical corporation  
6 for a certificate authorizing the construction of new transmission  
7 facilities shall be deemed to be necessary to the provision of  
8 electric service for purposes of any determination made under  
9 Section 1003 if the ~~commission~~ *Department of Energy* finds that  
10 the new facility is necessary to facilitate achievement of the  
11 renewable power goals established in Article 16 (commencing  
12 with Section 399.11).

13 (b) With respect to a transmission facility described in  
14 subdivision (a), the ~~commission~~ *Department of Energy* shall take  
15 all feasible actions to ensure that the transmission rates established  
16 by the Federal Energy Regulatory Commission are fully reflected  
17 in any retail rates established by the commission. These actions  
18 shall include, but are not limited to:

19 (1) Making findings, where supported by an evidentiary record,  
20 that those transmission facilities provide benefit to the transmission  
21 network and are necessary to facilitate the achievement of the  
22 renewables portfolio standard established in Article 16  
23 (commencing with Section 399.11).

24 (2) Directing the utility to which the generator will be  
25 interconnected, where the direction is not preempted by federal  
26 law, to seek the recovery through general transmission rates of the  
27 costs associated with the transmission facilities.

28 (3) Asserting the positions described in paragraphs (1) and (2)  
29 to the Federal Energy Regulatory Commission in appropriate  
30 proceedings.

31 (4) Allowing recovery in retail rates of any increase in  
32 transmission costs incurred by an electrical corporation resulting  
33 from the construction of the transmission facilities that are not  
34 approved for recovery in transmission rates by the Federal Energy  
35 Regulatory Commission after the commission determines that the  
36 costs were prudently incurred in accordance with subdivision (a)  
37 of Section 454.

38 ~~This section shall remain in effect only until January 1, 2013,~~  
39 ~~and as of that date is repealed, unless a later enacted statute, that~~  
40 ~~is enacted before January 1, 2013, deletes or extends that date.~~

1     ~~SEC. 292.5.~~ Section 399.2.5 is added to the Public Utilities  
2 Code, to read:  
3     ~~399.2.5. (a) Notwithstanding any other provision in Sections~~  
4 ~~1001 to 1013, inclusive, an application of an electrical corporation~~  
5 ~~for a certificate authorizing the construction of new transmission~~  
6 ~~facilities shall be deemed to be necessary to the provision of~~  
7 ~~electric service for purposes of any determination made under~~  
8 ~~Section 1003 if the Department of Energy finds that the new facility~~  
9 ~~is necessary to facilitate achievement of the renewable power goals~~  
10 ~~established in Article 16 (commencing with Section 399.11).~~  
11     ~~(b) With respect to a transmission facility described in~~  
12 ~~subdivision (a), the Department of Energy shall take all feasible~~  
13 ~~actions to ensure that the transmission rates established by the~~  
14 ~~Federal Energy Regulatory Commission are fully reflected in any~~  
15 ~~retail rates established by the commission. These actions shall~~  
16 ~~include, but are not limited to:~~  
17         ~~(1) Making findings, where supported by an evidentiary record,~~  
18 ~~that those transmission facilities provide benefit to the transmission~~  
19 ~~network and are necessary to facilitate the achievement of the~~  
20 ~~renewables portfolio standard established in Article 16~~  
21 ~~(commencing with Section 399.11).~~  
22         ~~(2) Directing the utility to which the generator will be~~  
23 ~~interconnected, where the direction is not preempted by federal~~  
24 ~~law, to seek the recovery through general transmission rates of the~~  
25 ~~costs associated with the transmission facilities.~~  
26         ~~(3) Asserting the positions described in paragraphs (1) and (2)~~  
27 ~~to the Federal Energy Regulatory Commission in appropriate~~  
28 ~~proceedings.~~  
29     ~~(c) The commission shall allow recovery in retail rates of any~~  
30 ~~increase in transmission costs incurred by an electrical corporation~~  
31 ~~resulting from the construction of the transmission facilities that~~  
32 ~~are not approved for recovery in transmission rates by the Federal~~  
33 ~~Energy Regulatory Commission after the commission determines~~  
34 ~~that the costs were prudently incurred in accordance with~~  
35 ~~subdivision (a) of Section 454.~~  
36     ~~(d) This section shall be operative on January 1, 2013.~~  
37 ~~The system benefits charge shall fund energy efficiency, renewable~~  
38 ~~energy, and research, development and demonstration.~~

1 ~~(2) Local publicly owned electric utilities shall continue to~~  
2 ~~collect and administer system benefits charges pursuant to Section~~  
3 ~~385.~~

4 ~~(e) (1) The commission shall require each electrical corporation~~  
5 ~~to identify a separate rate component to collect revenues to fund~~  
6 ~~energy efficiency, renewable energy, and research, development~~  
7 ~~and demonstration programs authorized pursuant to this section~~  
8 ~~beginning January 1, 2002, and ending January 1, 2012. The rate~~  
9 ~~component shall be a nonbypassable element of the local~~  
10 ~~distribution service and collected on the basis of usage.~~

11 ~~(2) This rate component may not exceed, for any tariff schedule,~~  
12 ~~the level of the rate component that was used to recover funds~~  
13 ~~authorized pursuant to Section 381 on January 1, 2000. If the~~  
14 ~~amounts specified in paragraph (1) of subdivision (d) are not~~  
15 ~~recovered fully in any year, the commission shall reset the rate~~  
16 ~~component to restore the unrecovered balance, provided that the~~  
17 ~~rate component may not exceed, for any tariff schedule, the level~~  
18 ~~of the rate component that was used to recover funds authorized~~  
19 ~~pursuant to Section 381 on January 1, 2000. Pending restoration,~~  
20 ~~any annual shortfalls shall be allocated pro rata among the three~~  
21 ~~funding categories in the proportions established in paragraph (1)~~  
22 ~~of subdivision (d).~~

23 ~~(d) The commission shall order San Diego Gas and Electric~~  
24 ~~Company, Southern California Edison Company, and Pacific Gas~~  
25 ~~and Electric Company to collect these funds commencing on~~  
26 ~~January 1, 2002, as follows:~~

27 ~~(1) Two hundred twenty-eight million dollars (\$228,000,000)~~  
28 ~~per year in total for energy efficiency and conservation activities;~~  
29 ~~sixty-five million five hundred thousand dollars (\$65,500,000) in~~  
30 ~~total per year for renewable energy, and sixty-two million five~~  
31 ~~hundred thousand dollars (\$62,500,000) in total per year for~~  
32 ~~research, development and demonstration. The funds for energy~~  
33 ~~efficiency and conservation activities shall continue to be allocated~~  
34 ~~in proportions established for the year 2000 as set forth in~~  
35 ~~paragraph (1) of subdivision (e) of Section 381.~~

36 ~~(2) The amounts shall be adjusted annually at a rate equal to~~  
37 ~~the lesser of the annual growth in electric commodity sales or~~  
38 ~~inflation, as defined by the gross domestic product deflator.~~

39 ~~(e) The commission shall ensure that each electrical corporation~~  
40 ~~allocates funds transferred by the department pursuant to~~

1 subdivision (b) of Section 25743 in a manner that maximizes the  
2 economic benefit to all customer classes that funded the New  
3 Renewable Resources Account.

4 (f) ~~The commission and the department shall retain and continue~~  
5 ~~their oversight responsibilities as set forth in Sections 381 and 383~~  
6 ~~of this code, and Chapter 7.1 (commencing with Section 25620)~~  
7 ~~and Chapter 8.6 (commencing with Section 25740) of Division 15~~  
8 ~~of the Public Resources Code.~~

9 (g) ~~An applicant for the Large Nonresidential Standard~~  
10 ~~Performance Contract Program funded pursuant to paragraph (1)~~  
11 ~~of subdivision (b) and an electrical corporation shall promptly~~  
12 ~~attempt to resolve disputes that arise related to the program's~~  
13 ~~guidelines and parameters prior to entering into a program~~  
14 ~~agreement. The applicant shall provide the electrical corporation~~  
15 ~~with written notice of any dispute. Within 10 business days after~~  
16 ~~receipt of the notice, the parties shall meet to resolve the dispute.~~  
17 ~~If the dispute is not resolved within 10 business days after the date~~  
18 ~~of the meeting, the electrical corporation shall notify the applicant~~  
19 ~~of his or her right to file a complaint with the commission, which~~  
20 ~~complaint shall describe the grounds for the complaint, injury, and~~  
21 ~~relief sought. The commission shall issue its findings in response~~  
22 ~~to a filed complaint within 30 business days of the date of receipt~~  
23 ~~of the complaint. Prior to issuance of its findings, the commission~~  
24 ~~shall provide a copy of the complaint to the electrical corporation,~~  
25 ~~which shall provide a response to the complaint to the commission~~  
26 ~~within five business days of the date of receipt. During the dispute~~  
27 ~~period, the amount of estimated financial incentives shall be held~~  
28 ~~in reserve until the dispute is resolved.~~

29 *SEC. 280. Section 399.8 of the Public Utilities Code is amended*  
30 *to read:*

31 399.8. (a) In order to ensure that the citizens of this state  
32 continue to receive safe, reliable, affordable, and environmentally  
33 sustainable electric service, it is the policy of this state and the  
34 intent of the Legislature that prudent investments in energy  
35 efficiency, renewable energy, and research, development and  
36 demonstration shall continue to be made.

37 (b) (1) Every customer of an electrical corporation shall pay a  
38 nonbypassable system benefits charge authorized pursuant to this  
39 article. The system benefits charge shall fund energy efficiency,  
40 renewable energy, and research, development and demonstration.

1 (2) Local publicly owned electric utilities shall continue to  
2 collect and administer system benefits charges pursuant to Section  
3 385.

4 (c) (1) The commission shall require each electrical corporation  
5 to identify a separate rate component to collect revenues to fund  
6 energy efficiency, renewable energy, and research, development  
7 and demonstration programs authorized pursuant to this section  
8 beginning January 1, 2002, and ending January 1, 2012. The rate  
9 component shall be a nonbypassable element of the local  
10 distribution service and collected on the basis of usage.

11 (2) This rate component may not exceed, for any tariff schedule,  
12 the level of the rate component that was used to recover funds  
13 authorized pursuant to Section 381 on January 1, 2000. If the  
14 amounts specified in paragraph (1) of subdivision (d) are not  
15 recovered fully in any year, the commission shall reset the rate  
16 component to restore the unrecovered balance, provided that the  
17 rate component may not exceed, for any tariff schedule, the level  
18 of the rate component that was used to recover funds authorized  
19 pursuant to Section 381 on January 1, 2000. Pending restoration,  
20 any annual shortfalls shall be allocated pro rata among the three  
21 funding categories in the proportions established in paragraph (1)  
22 of subdivision (d).

23 (d) The commission shall order San Diego Gas and Electric  
24 Company, Southern California Edison Company, and Pacific Gas  
25 and Electric Company to collect these funds commencing on  
26 January 1, 2002, as follows:

27 (1) Two hundred twenty-eight million dollars (\$228,000,000)  
28 per year in total for energy efficiency and conservation activities,  
29 sixty-five million five hundred thousand dollars (\$65,500,000) in  
30 total per year for renewable energy, and sixty-two million five  
31 hundred thousand dollars (\$62,500,000) in total per year for  
32 research, development and demonstration. The funds for energy  
33 efficiency and conservation activities shall continue to be allocated  
34 in proportions established for the year 2000 as set forth in  
35 paragraph (1) of subdivision (c) of Section 381.

36 (2) The amounts shall be adjusted annually at a rate equal to  
37 the lesser of the annual growth in electric commodity sales or  
38 inflation, as defined by the gross domestic product deflator.

39 (e) The commission shall ensure that each electrical corporation  
40 allocates funds transferred by the ~~Energy Commission~~ *department*

1 pursuant to subdivision (b) of Section 25743 in a manner that  
2 maximizes the economic benefit to all customer classes that funded  
3 the New Renewable Resources Account.

4 (f) The commission and the ~~Energy Commission~~ *department*  
5 shall retain and continue their oversight responsibilities as set forth  
6 in Sections 381 and 383 *of this code*, and Chapter 7.1 (commencing  
7 with Section 25620) and Chapter 8.6 (commencing with Section  
8 25740) of Division 15 of the Public Resources Code.

9 (g) An applicant for the Large Nonresidential Standard  
10 Performance Contract Program funded pursuant to paragraph (1)  
11 of subdivision (b) and an electrical corporation shall promptly  
12 attempt to resolve disputes that arise related to the program's  
13 guidelines and parameters prior to entering into a program  
14 agreement. The applicant shall provide the electrical corporation  
15 with written notice of any dispute. Within 10 business days after  
16 receipt of the notice, the parties shall meet to resolve the dispute.  
17 If the dispute is not resolved within 10 business days after the date  
18 of the meeting, the electrical corporation shall notify the applicant  
19 of his or her right to file a complaint with the commission, which  
20 complaint shall describe the grounds for the complaint, injury, and  
21 relief sought. The commission shall issue its findings in response  
22 to a filed complaint within 30 business days of the date of receipt  
23 of the complaint. Prior to issuance of its findings, the commission  
24 shall provide a copy of the complaint to the electrical corporation,  
25 which shall provide a response to the complaint to the commission  
26 within five business days of the date of receipt. During the dispute  
27 period, the amount of estimated financial incentives shall be held  
28 in reserve until the dispute is resolved.

29 ~~SEC. 294.~~

30 *SEC. 281.* Section 399.11 of the Public Utilities Code is  
31 amended to read:

32 399.11. The Legislature finds and declares all of the following:

33 (a) In order to attain a target of generating 20 percent of total  
34 retail sales of electricity in California from eligible renewable  
35 energy resources by December 31, 2010, and for the purposes of  
36 increasing the diversity, reliability, public health and environmental  
37 benefits of the energy mix, it is the intent of the Legislature that  
38 the commission and the Department of Energy implement the  
39 California Renewables Portfolio Standard Program described in  
40 this article.

1 (b) Increasing California’s reliance on eligible renewable energy  
2 resources may promote stable electricity prices, protect public  
3 health, improve environmental quality, stimulate sustainable  
4 economic development, create new employment opportunities,  
5 and reduce reliance on imported fuels.

6 (c) The development of eligible renewable energy resources  
7 and the delivery of the electricity generated by those resources to  
8 customers in California may ameliorate air quality problems  
9 throughout the state and improve public health by reducing the  
10 burning of fossil fuels and the associated environmental impacts  
11 and by reducing in-state fossil fuel consumption.

12 (d) The California Renewables Portfolio Standard Program is  
13 intended to complement the Renewable Energy Resources Program  
14 administered by the Department of Energy and established pursuant  
15 to Chapter 8.6 (commencing with Section 25740) of Division 15  
16 of the Public Resources Code.

17 (e) New and modified electric transmission facilities may be  
18 necessary to facilitate the state achieving its renewables portfolio  
19 standard targets.

20 ~~SEC. 295:~~

21 *SEC. 282.* Section 399.12 of the Public Utilities Code is  
22 amended to read:

23 399.12. For purposes of this article, the following terms have  
24 the following meanings:

25 (a) “Conduit hydroelectric facility” means a facility for the  
26 generation of electricity that uses only the hydroelectric potential  
27 of an existing pipe, ditch, flume, siphon, tunnel, canal, or other  
28 manmade conduit that is operated to distribute water for a  
29 beneficial use.

30 (b) “Delivered” and “delivery” have the same meaning as  
31 provided in subdivision (a) of Section 25741 of the Public  
32 Resources Code.

33 (c) “Eligible renewable energy resource” means an electric  
34 generating facility that meets the definition of “in-state renewable  
35 electricity generation facility” in Section 25741 of the Public  
36 Resources Code, subject to the following limitations:

37 (1) (A) An existing small hydroelectric generation facility of  
38 30 megawatts or less shall be eligible only if a retail seller or local  
39 publicly owned electric utility owned or procured the electricity  
40 from the facility as of December 31, 2005. A new hydroelectric

1 facility is not an eligible renewable energy resource if it will cause  
2 an adverse impact on instream beneficial uses or cause a change  
3 in the volume or timing of streamflow.

4 (B) Notwithstanding subparagraph (A), a conduit hydroelectric  
5 facility of 30 megawatts or less that commenced operation before  
6 January 1, 2006, is an eligible renewable energy resource. A  
7 conduit hydroelectric facility of 30 megawatts or less that  
8 commences operation after December 31, 2005, is an eligible  
9 renewable energy resource so long as it does not cause an adverse  
10 impact on instream beneficial uses or cause a change in the volume  
11 or timing of streamflow.

12 (2) A facility engaged in the combustion of municipal solid  
13 waste shall not be considered an eligible renewable resource unless  
14 it is located in Stanislaus County and was operational prior to  
15 September 26, 1996.

16 (d) “Procure” means that a retail seller or local publicly owned  
17 electric utility receives delivered electricity generated by an eligible  
18 renewable energy resource that it owns or for which it has entered  
19 into an electricity purchase agreement. Nothing in this article is  
20 intended to imply that the purchase of electricity from third parties  
21 in a wholesale transaction is the preferred method of fulfilling a  
22 retail seller’s obligation to comply with this article or the obligation  
23 of a local publicly owned electric utility to meet its renewables  
24 portfolio standard implemented pursuant to Section 387.

25 (e) “Renewables portfolio standard” means the specified  
26 percentage of electricity generated by eligible renewable energy  
27 resources that a retail seller is required to procure pursuant to this  
28 article or the obligation of a local publicly owned electric utility  
29 to meet its renewables portfolio standard implemented pursuant  
30 to Section 387.

31 (f) (1) “Renewable energy credit” means a certificate of proof,  
32 issued through the accounting system established by the  
33 Department of Energy pursuant to Section 399.13, that one unit  
34 of electricity was generated and delivered by an eligible renewable  
35 energy resource.

36 (2) “Renewable energy credit” includes all renewable and  
37 environmental attributes associated with the production of  
38 electricity from the eligible renewable energy resource, except for  
39 an emissions reduction credit issued pursuant to Section 40709 of  
40 the Health and Safety Code and any credits or payments associated

1 with the reduction of solid waste and treatment benefits created  
2 by the utilization of biomass or biogas fuels.

3 (3) No electricity generated by an eligible renewable energy  
4 resource attributable to the use of nonrenewable fuels, beyond a  
5 de minimis quantity, as determined by the Energy Commission,  
6 shall result in the creation of a renewable energy credit.

7 (g) “Retail seller” means an entity engaged in the retail sale of  
8 electricity to end-use customers located within the state, including  
9 any of the following:

10 (1) An electrical corporation, as defined in Section 218.

11 (2) A community choice aggregator. The commission shall  
12 institute a rulemaking to determine the manner in which a  
13 community choice aggregator will participate in the renewables  
14 portfolio standard program subject to the same terms and conditions  
15 applicable to an electrical corporation.

16 (3) An electric service provider, as defined in Section 218.3,  
17 for all sales of electricity to customers beginning January 1, 2006.  
18 The commission shall institute a rulemaking to determine the  
19 manner in which electric service providers will participate in the  
20 renewables portfolio standard program. The electric service  
21 provider shall be subject to the same terms and conditions  
22 applicable to an electrical corporation pursuant to this article. This  
23 paragraph does not impair a contract entered into between an  
24 electric service provider and a retail customer prior to the  
25 suspension of direct access by the commission pursuant to Section  
26 80110 of the Water Code.

27 (4) “Retail seller” does not include any of the following:

28 (A) A corporation or person employing cogeneration technology  
29 or producing electricity consistent with subdivision (b) of Section  
30 218.

31 (B) The Department of Water Resources, or its successor, the  
32 Department of Energy, acting in its capacity pursuant to Division  
33 27 (commencing with Section 80000) of the Water Code.

34 (C) A local publicly owned electric utility.

35 ~~SEC. 295.5.~~

36 *SEC. 283.* Section 399.12.5 of the Public Utilities Code is  
37 amended to read:

38 399.12.5. (a) Notwithstanding subdivision (c) of Section  
39 399.12, a small hydroelectric generation facility that satisfies the  
40 criteria for an eligible renewable energy resource pursuant to

1 Section 399.12 shall not lose its eligibility if efficiency  
2 improvements undertaken after January 1, 2008, cause the  
3 generating capacity of the facility to exceed 30 megawatts, and  
4 the efficiency improvements do not result in an adverse impact on  
5 instream beneficial uses or cause a change in the volume or timing  
6 of streamflow. The entire generating capacity of the facility shall  
7 be eligible.

8 (b) Notwithstanding subdivision (c) of Section 399.12, the  
9 incremental increase in the amount of electricity generated from  
10 a hydroelectric generation facility as a result of efficiency  
11 improvements at the facility, is electricity from an eligible  
12 renewable energy resource, without regard to the electrical output  
13 of the facility, if all of the following conditions are met:

14 (1) The incremental increase is the result of efficiency  
15 improvements from a retrofit that do not result in an adverse impact  
16 on instream beneficial uses or cause a change in the volume or  
17 timing of streamflow.

18 (2) The hydroelectric generation facility has, within the  
19 immediately preceding 15 years, received certification from the  
20 State Water Resources Control Board pursuant to Section 401 of  
21 the Clean Water Act (33 U.S.C. Sec. 1341), or has received  
22 certification from a regional board to which the state board has  
23 delegated authority to issue certification, unless the facility is  
24 exempt from certification because there is no potential for discharge  
25 into waters of the United States.

26 (3) The hydroelectric generation facility was operational prior  
27 to January 1, 2007, the efficiency improvements are initiated on  
28 or after January 1, 2008, the efficiency improvements are not the  
29 result of routine maintenance activities, as determined by the  
30 ~~Department of Energy~~ *California Energy Board*, and the efficiency  
31 improvements were not included in any resource plan sponsored  
32 by the facility owner prior to January 1, 2008.

33 (4) All of the incremental increase in electricity resulting from  
34 the efficiency improvements are demonstrated to result from a  
35 long-term financial commitment by the retail seller or local publicly  
36 owned electric utility. For purposes of this paragraph, “long-term  
37 financial commitment” means either new ownership investment  
38 in the facility by the retail seller or local publicly owned electric  
39 utility or a new or renewed contract with a term of 10 or more  
40 years, which includes procurement of the incremental generation.

1 (c) The incremental increase in the amount of electricity  
2 generated from a hydroelectric generation facility as a result of  
3 efficiency improvements at the facility are not eligible for  
4 supplemental energy payments pursuant to the Renewable Energy  
5 Resources Program (Chapter 8.6 (commencing with Section 25740)  
6 of Division 15 of the Public Resources Code), or a successor  
7 program.

8 ~~SEC. 296.~~

9 ~~SEC. 284.~~ Section 399.13 of the Public Utilities Code is  
10 amended to read:

11 399.13. ~~The Department of Energy~~ *California Energy Board*  
12 shall do all of the following:

13 (a) Certify eligible renewable energy resources that it determines  
14 meet the criteria described in subdivision (c) of Section 399.12.

15 (b) Design and implement an accounting system to verify  
16 compliance with the renewables portfolio standard by retail sellers,  
17 to ensure that electricity generated by an eligible renewable energy  
18 resource is counted only once for the purpose of meeting the  
19 renewables portfolio standard of this state or any other state, to  
20 certify renewable energy credits produced by eligible renewable  
21 energy resources, and to verify retail product claims in this state  
22 or any other state. In establishing the guidelines governing this  
23 accounting system, ~~the Department of Energy~~ *California Energy*  
24 *Board* shall collect data from electricity market participants that  
25 it deems necessary to verify compliance of retail sellers, in  
26 accordance with the requirements of this article and the California  
27 Public Records Act (Chapter 3.5 (commencing with Section 6250)  
28 of Division 7 of Title 1 of the Government Code). In seeking data  
29 from electrical corporations, ~~the Department of Energy~~ *California*  
30 *Energy Board* shall request data from the commission. The  
31 commission shall collect data from electrical corporations and  
32 remit the data to ~~the Department of Energy~~ *California Energy*  
33 *Board* within 90 days of the request.

34 (c) Establish a system for tracking and verifying renewable  
35 energy credits that, through the use of independently audited data,  
36 verifies the generation and delivery of electricity associated with  
37 each renewable energy credit and protects against multiple counting  
38 of the same renewable energy credit. ~~The Department of Energy~~  
39 *California Energy Board* shall consult with other western states

1 and with the Western Electricity Coordinating Council in the  
2 development of this system.

3 (d) Certify, for purposes of compliance with the renewable  
4 portfolio standard requirements by a retail seller, the eligibility of  
5 renewable energy credits associated with deliveries of electricity  
6 by an eligible renewable energy resource to a local publicly owned  
7 electric utility, if the department determines that the following  
8 conditions have been satisfied:

9 (1) The local publicly owned electric utility that is procuring  
10 the electricity is in compliance with the requirements of Section  
11 387.

12 (2) The local publicly owned electric utility has established an  
13 annual renewables portfolio standard target comparable to those  
14 applicable to an electrical corporation, is procuring sufficient  
15 eligible renewable energy resources to satisfy the targets, and will  
16 not fail to satisfy the targets in the event that the renewable energy  
17 credit is sold to another retail seller.

18 ~~SEC. 297.~~

19 *SEC. 285.* Section 399.15 of the Public Utilities Code is  
20 amended to read:

21 399.15. (a) In order to fulfill unmet long-term resource needs,  
22 the commission shall establish a renewables portfolio standard  
23 requiring all electrical corporations to procure a minimum quantity  
24 of electricity generated by eligible renewable energy resources as  
25 a specified percentage of total kilowatthours sold to their retail  
26 end-use customers each calendar year, subject to limits on the total  
27 amount of costs expended above the market prices determined in  
28 subdivision (c), to achieve the targets established under this article.

29 (b) The commission shall implement annual procurement targets  
30 for each retail seller as follows:

31 (1) Each retail seller shall, pursuant to subdivision (a), increase  
32 its total procurement of eligible renewable energy resources by at  
33 least an additional 1 percent of retail sales per year so that 20  
34 percent of its retail sales are procured from eligible renewable  
35 energy resources no later than December 31, 2010. A retail seller  
36 with 20 percent of retail sales procured from eligible renewable  
37 energy resources in any year shall not be required to increase its  
38 procurement of renewable energy resources in the following year.

39 (2) For purposes of setting annual procurement targets, the  
40 commission shall establish an initial baseline for each retail seller

1 based on the actual percentage of retail sales procured from eligible  
2 renewable energy resources in 2001, and to the extent applicable,  
3 adjusted going forward pursuant to Section 399.12.

4 (3) Only for purposes of establishing these targets, the  
5 commission shall include all electricity sold to retail customers by  
6 the Department of Water Resources, or its successor, pursuant to  
7 Section 80100 of the Water Code in the calculation of retail sales  
8 by an electrical corporation.

9 (4) In the event that a retail seller fails to procure sufficient  
10 eligible renewable energy resources in a given year to meet any  
11 annual target established pursuant to this subdivision, the retail  
12 seller shall procure additional eligible renewable energy resources  
13 in subsequent years to compensate for the shortfall, subject to the  
14 limitation on costs for electrical corporations established pursuant  
15 to subdivision (d).

16 (c) The commission shall establish a methodology to determine  
17 the market price of electricity for terms corresponding to the length  
18 of contracts with eligible renewable energy resources, in  
19 consideration of the following:

20 (1) The long-term market price of electricity for fixed price  
21 contracts, determined pursuant to an electrical corporation's general  
22 procurement activities as authorized by the commission.

23 (2) The long-term ownership, operating, and fixed-price fuel  
24 costs associated with fixed-price electricity from new generating  
25 facilities.

26 (3) The value of different products including baseload, peaking,  
27 and as-available electricity.

28 (d) The commission shall establish, for each electrical  
29 corporation, a limitation on the total costs expended above the  
30 market prices determined in subdivision (c) for the procurement  
31 of eligible renewable energy resources to achieve the annual  
32 procurement targets established under this article.

33 (1) The cost limitation shall be equal to the amount of funds  
34 transferred to each electrical corporation by the Department of  
35 Energy pursuant to subdivision (b) of Section 25743 of the Public  
36 Resources Code and the 51.5 percent of the funds which would  
37 have been collected through January 1, 2012, from the customers  
38 of the electrical corporation based on the renewable energy public  
39 goods charge in effect as of January 1, 2007.

1 (2) The above-market costs of a contract selected by an electrical  
2 corporation may be counted toward the cost limitation if all of the  
3 following conditions are satisfied:

4 (A) The contract has been approved by the commission and was  
5 selected through a competitive solicitation pursuant to the  
6 requirements of subdivision (d) of Section 399.14.

7 (B) The contract covers a duration of no less than 10 years.

8 (C) The contracted project is a new or repowered facility  
9 commencing commercial operations on or after January 1, 2005.

10 (D) No purchases of renewable energy credits may be eligible  
11 for consideration as an above-market cost.

12 (E) The above-market costs of a contract do not include any  
13 indirect expenses including imbalance energy charges, sale of  
14 excess energy, decreased generation from existing resources, or  
15 transmission upgrades.

16 (3) If the cost limitation for an electrical corporation is  
17 insufficient to support the total costs expended above the market  
18 prices determined in subdivision (c) for the procurement of eligible  
19 renewable energy resources satisfying the conditions of paragraph  
20 (2), the commission shall allow the electrical corporation to limit  
21 its procurement to the quantity of eligible renewable energy  
22 resources that can be procured at or below the market prices  
23 established in subdivision (c).

24 (4) This section does not prevent an electrical corporation from  
25 voluntarily proposing to procure eligible renewable energy  
26 resources at above-market prices that are not counted toward the  
27 cost limitation. Any voluntary procurement involving above-market  
28 costs shall be subject to commission approval prior to the expense  
29 being recovered in rates.

30 (e) The establishment of a renewables portfolio standard shall  
31 not constitute implementation by the commission of the federal  
32 Public Utility Regulatory Policies Act of 1978 (Public Law  
33 95-617).

34 (f) The commission shall consult with the Department of Energy  
35 in calculating market prices under subdivision (c) and establishing  
36 other renewables portfolio standard policies.

37 ~~SEC. 298.~~

38 *SEC. 286.* Section 399.16 of the Public Utilities Code is  
39 amended to read:

1 399.16. (a) The commission, by rule, may authorize the use  
2 of renewable energy credits to satisfy the requirements of the  
3 renewables portfolio standard established pursuant to this article,  
4 subject to the following conditions:

5 (1) Prior to authorizing any renewable energy credit to be used  
6 toward satisfying annual procurement targets, the commission and  
7 the Department of Energy shall conclude that the tracking system  
8 established pursuant to subdivision (c) of Section 399.13, is  
9 operational, is capable of independently verifying the electricity  
10 generated by an eligible renewable energy resource and delivered  
11 to the retail seller, and can ensure that renewable energy credits  
12 shall not be double counted by any seller of electricity within the  
13 service territory of the Western Electricity Coordinating Council  
14 (WECC).

15 (2) A renewable energy credit shall be counted only once for  
16 compliance with the renewables portfolio standard of this state or  
17 any other state, or for verifying retail product claims in this state  
18 or any other state.

19 (3) The electricity is delivered to a retail seller, the Independent  
20 System Operator, or a local publicly owned electric utility.

21 (4) All revenues received by an electrical corporation for the  
22 sale of a renewable energy credit shall be credited to the benefit  
23 of ratepayers.

24 (5) No renewable energy credits shall be created for electricity  
25 generated pursuant to any electricity purchase contract with a retail  
26 seller or a local publicly owned electric utility executed before  
27 January 1, 2005, unless the contract contains explicit terms and  
28 conditions specifying the ownership or disposition of those credits.  
29 Deliveries under those contracts shall be tracked through the  
30 accounting system described in subdivision (b) of Section 399.13  
31 and included in the baseline quantity of eligible renewable energy  
32 resources of the purchasing retail seller pursuant to Section 399.15.

33 (6) A renewable energy credits shall not be created for electricity  
34 generated under any electricity purchase contract executed after  
35 January 1, 2005, pursuant to the federal Public Utility Regulatory  
36 Policies Act of 1978 (16 U.S.C. Sec. 2601 et seq.). Deliveries  
37 under the electricity purchase contracts shall be tracked through  
38 the accounting system described in subdivision (b) of Section  
39 399.12 and count toward the renewables portfolio standard  
40 obligations of the purchasing retail seller.

1 (7) The commission may limit the quantity of renewable energy  
2 credits that may be procured unbundled from electricity generation  
3 by any retail seller, to meet the requirements of this article.

4 (8) An electrical corporation shall not be obligated to procure  
5 renewable energy credits to satisfy the requirements of this article  
6 in the event that the total costs expended above the applicable  
7 market prices for the procurement of eligible renewable energy  
8 resources exceeds the cost limitation established pursuant to  
9 subdivision (d) of Section 399.15.

10 (9) Any additional condition that the commission determines  
11 is reasonable.

12 (b) The commission shall allow an electrical corporation to  
13 recover the reasonable costs of purchasing renewable energy credits  
14 in rates.

15 ~~SEC. 298.5.~~

16 ~~SEC. 287.~~ Section 399.17 of the Public Utilities Code is  
17 amended to read:

18 399.17. (a) Subject to the provisions of this section, the  
19 requirements of this article apply to an electrical corporation with  
20 60,000 or fewer customer accounts in California that serves retail  
21 end-use customers outside California.

22 (b) For an electrical corporation with 60,000 or fewer customer  
23 accounts in California that serves retail end-use customers outside  
24 California, an eligible renewable energy resource includes a facility  
25 that is located outside California, if the facility is connected to the  
26 Western Electricity Coordinating Council (WECC) transmission  
27 system, provided all of the following conditions are met:

28 (1) The electricity generated by the facility is procured by the  
29 electrical corporation on behalf of its California customers, and is  
30 not used to fulfill renewable energy procurement requirements in  
31 other states.

32 (2) The electrical corporation participates in, and complies with,  
33 the accounting system administered by the Department of Energy  
34 pursuant to subdivision (b) of Section 399.13.

35 (3) The Department of Energy verifies that the electricity  
36 generated by the facility is eligible to meet the annual procurement  
37 targets of this article.

38 (c) The commission shall determine the annual procurement  
39 targets for an electrical corporation with 60,000 or fewer customer  
40 accounts in California that serves retail end-use customers outside

1 California, as a specified percentage of total kilowatthours sold  
2 by the electrical corporation to its retail end-use customers in  
3 California in a calendar year.

4 (d) An electrical corporation with 60,000 or fewer customer  
5 accounts in California that serves retail end-use customers outside  
6 California, may use an integrated resource plan prepared in  
7 compliance with the requirements of another state utility regulatory  
8 commission, to fulfill the requirement to prepare a renewable  
9 energy procurement plan pursuant to this article, provided the plan  
10 meets the requirements of Sections 399.11, 399.12, 399.13, and  
11 399.14, as modified by this section.

12 (e) Procurement and administrative costs associated with  
13 long-term contracts entered into by an electrical corporation with  
14 60,000 or fewer customer accounts in California that serves retail  
15 end-use customers outside California, for eligible renewable energy  
16 resources pursuant to this article, at or below the market price  
17 determined by the commission pursuant to subdivision (c) of  
18 Section 399.15, shall be deemed reasonable per se, and shall be  
19 recoverable in rates of the electrical corporation's California  
20 customers, provided the costs are not recoverable in rates in other  
21 states served by the electrical corporation.

22 ~~SEC. 299.~~

23 *SEC. 288.* Section 411 is added to the Public Utilities Code,  
24 to read:

25 411. ~~On or after January 1, 2013, all~~ All fees collected by the  
26 commission from electrical corporations and gas corporations to  
27 support those functions of the commission in reviewing and issuing  
28 certificates of public convenience and necessity that are transferred  
29 to the California Energy ~~Commission~~ Board within the Department  
30 of Energy pursuant to subdivision (b) of Section 1001, shall be  
31 identified and transferred to the Secretary of Energy, at least  
32 quarterly, upon the assumption by the department of those  
33 functions.

34 ~~SEC. 300.~~

35 *SEC. 289.* Section 454.5 of the Public Utilities Code is amended  
36 to read:

37 454.5. (a) The commission shall specify the allocation of  
38 electricity, including quantity, characteristics, and duration of  
39 electricity delivery, that the Department of Water Resources, or  
40 its successor, shall provide under its power purchase agreements

1 to the customers of each electrical corporation, which shall be  
2 reflected in the electrical corporation's proposed procurement plan.  
3 Each electrical corporation shall file a proposed procurement plan  
4 with the commission not later than 60 days after the commission  
5 specifies the allocation of electricity. The proposed procurement  
6 plan shall specify the date that the electrical corporation intends  
7 to resume procurement of electricity for its retail customers,  
8 consistent with its obligation to serve. After the commission's  
9 adoption of a procurement plan, the commission shall allow not  
10 less than 60 days before the electrical corporation resumes  
11 procurement pursuant to this section.

12 (b) An electrical corporation's proposed procurement plan shall  
13 include, but not be limited to, all of the following:

14 (1) An assessment of the price risk associated with the electrical  
15 corporation's portfolio, including any utility-retained generation,  
16 existing power purchase and exchange contracts, and proposed  
17 contracts or purchases under which an electrical corporation will  
18 procure electricity, electricity demand reductions, and  
19 electricity-related products and the remaining open position to be  
20 served by spot market transactions.

21 (2) A definition of each electricity product, electricity-related  
22 product, and procurement related financial product, including  
23 support and justification for the product type and amount to be  
24 procured under the plan.

25 (3) The duration of the plan.

26 (4) The duration, timing, and range of quantities of each product  
27 to be procured.

28 (5) A competitive procurement process under which the  
29 electrical corporation may request bids for procurement-related  
30 services, including the format and criteria of that procurement  
31 process.

32 (6) An incentive mechanism, if any incentive mechanism is  
33 proposed, including the type of transactions to be covered by that  
34 mechanism, their respective procurement benchmarks, and other  
35 parameters needed to determine the sharing of risks and benefits.

36 (7) The upfront standards and criteria by which the acceptability  
37 and eligibility for rate recovery of a proposed procurement  
38 transaction will be known by the electrical corporation prior to  
39 execution of the transaction. This shall include an expedited  
40 approval process for the commission's review of proposed contracts

1 and subsequent approval or rejection thereof. The electrical  
2 corporation shall propose alternative procurement choices in the  
3 event a contract is rejected.

4 (8) Procedures for updating the procurement plan.

5 (9) A showing that the procurement plan will achieve the  
6 following:

7 (A) The electrical corporation will, in order to fulfill its unmet  
8 resource needs and in furtherance of Section 701.3, until a 20  
9 percent renewable resources portfolio is achieved, procure  
10 renewable energy resources with the goal of ensuring that at least  
11 an additional 1 percent per year of the electricity sold by the  
12 electrical corporation is generated from renewable energy  
13 resources, provided sufficient funds are made available pursuant  
14 to Sections 399.6 and 399.15, to cover the above-market costs for  
15 new renewable energy resources.

16 (B) The electrical corporation will create or maintain a  
17 diversified procurement portfolio consisting of both short-term  
18 and long-term electricity and electricity-related and demand  
19 reduction products.

20 (C) The electrical corporation will first meet its unmet resource  
21 needs through all available energy efficiency and demand reduction  
22 resources that are cost effective, reliable, and feasible.

23 (10) The electrical corporation's risk management policy,  
24 strategy, and practices, including specific measures of price  
25 stability.

26 (11) A plan to achieve appropriate increases in diversity of  
27 ownership and diversity of fuel supply of nonutility electrical  
28 generation.

29 (12) A mechanism for recovery of reasonable administrative  
30 costs related to procurement in the generation component of rates.

31 (c) The commission shall review and accept, modify, or reject  
32 each electrical corporation's procurement plan. The commission's  
33 review shall consider each electrical corporation's individual  
34 procurement situation, and shall give strong consideration to that  
35 situation in determining which one or more of the features set forth  
36 in this subdivision shall apply to that electrical corporation. A  
37 procurement plan approved by the commission shall contain one  
38 or more of the following features, provided that the commission  
39 may not approve a feature or mechanism for an electrical  
40 corporation if it finds that the feature or mechanism would impair

1 the restoration of an electrical corporation's creditworthiness or  
2 would lead to a deterioration of an electrical corporation's  
3 creditworthiness:

4 (1) A competitive procurement process under which the  
5 electrical corporation may request bids for procurement-related  
6 services. The commission shall specify the format of that  
7 procurement process, as well as criteria to ensure that the auction  
8 process is open and adequately subscribed. Any purchases made  
9 in compliance with the commission-authorized process shall be  
10 recovered in the generation component of rates.

11 (2) An incentive mechanism that establishes a procurement  
12 benchmark or benchmarks and authorizes the electrical corporation  
13 to procure from the market, subject to comparing the electrical  
14 corporation's performance to the commission-authorized  
15 benchmark or benchmarks. The incentive mechanism shall be  
16 clear, achievable, and contain quantifiable objectives and standards.  
17 The incentive mechanism shall contain balanced risk and reward  
18 incentives that limit the risk and reward of an electrical corporation.

19 (3) Upfront achievable standards and criteria by which the  
20 acceptability and eligibility for rate recovery of a proposed  
21 procurement transaction will be known by the electrical corporation  
22 prior to the execution of the bilateral contract for the transaction.  
23 The commission shall provide for expedited review and either  
24 approve or reject the individual contracts submitted by the electrical  
25 corporation to ensure compliance with its procurement plan. To  
26 the extent the commission rejects a proposed contract pursuant to  
27 this criteria, the commission shall designate alternative procurement  
28 choices obtained in the procurement plan that will be recoverable  
29 for ratemaking purposes.

30 (d) A procurement plan approved by the commission shall  
31 accomplish each of the following objectives:

32 (1) Enable the electrical corporation to fulfill its obligation to  
33 serve its customers at just and reasonable rates.

34 (2) Eliminate the need for after-the-fact reasonableness reviews  
35 of an electrical corporation's actions in compliance with an  
36 approved procurement plan, including resulting electricity  
37 procurement contracts, practices, and related expenses. However,  
38 the commission may establish a regulatory process to verify and  
39 assure that each contract was administered in accordance with the

1 terms of the contract, and contract disputes which may arise are  
2 reasonably resolved.

3 (3) Ensure timely recovery of prospective procurement costs  
4 incurred pursuant to an approved procurement plan. The  
5 commission shall establish rates based on forecasts of procurement  
6 costs adopted by the commission, actual procurement costs  
7 incurred, or combination thereof, as determined by the commission.  
8 The commission shall establish power procurement balancing  
9 accounts to track the differences between recorded revenues and  
10 costs incurred pursuant to an approved procurement plan. The  
11 commission shall review the power procurement balancing  
12 accounts, not less than semiannually, and shall adjust rates or order  
13 refunds, as necessary, to promptly amortize a balancing account,  
14 according to a schedule determined by the commission. Until  
15 January 1, 2006, the commission shall ensure that any  
16 overcollection or undercollection in the power procurement  
17 balancing account does not exceed 5 percent of the electrical  
18 corporation's actual recorded generation revenues for the prior  
19 calendar year excluding revenues collected for the Department of  
20 Water Resources, or its successor. The commission shall determine  
21 the schedule for amortizing the overcollection or undercollection  
22 in the balancing account to ensure that the 5 percent threshold is  
23 not exceeded. After January 1, 2006, this adjustment shall occur  
24 when deemed appropriate by the commission consistent with the  
25 objectives of this section.

26 (4) Moderate the price risk associated with serving its retail  
27 customers, including the price risk embedded in its long-term  
28 supply contracts, by authorizing an electrical corporation to enter  
29 into financial and other electricity-related product contracts.

30 (5) Provide for just and reasonable rates, with an appropriate  
31 balancing of price stability and price level in the electrical  
32 corporation's procurement plan.

33 (e) The commission shall provide for the periodic review and  
34 prospective modification of an electrical corporation's procurement  
35 plan.

36 (f) The commission may engage an independent consultant or  
37 advisory service to evaluate risk management and strategy. The  
38 reasonable costs of any consultant or advisory service is a  
39 reimbursable expense and eligible for funding pursuant to Section  
40 631.

1 (g) The commission shall adopt appropriate procedures to ensure  
2 the confidentiality of any market sensitive information submitted  
3 in an electrical corporation's proposed procurement plan or  
4 resulting from or related to its approved procurement plan,  
5 including, but not limited to, proposed or executed power purchase  
6 agreements, data request responses, or consultant reports, or any  
7 combination, provided that the Division of Ratepayer Advocates  
8 and other consumer groups that are nonmarket participants shall  
9 be provided access to this information under confidentiality  
10 procedures authorized by the commission.

11 (h) This section does not alter, modify, or amend the  
12 commission's oversight of affiliate transactions under its rules and  
13 decisions or the commission's existing authority to investigate and  
14 penalize an electrical corporation's alleged fraudulent activities,  
15 or to disallow costs incurred as a result of gross incompetence,  
16 fraud, abuse, or similar grounds. This section does not expand,  
17 modify, or limit the Department of Energy's existing authority and  
18 responsibilities as set forth in Sections 25216, 25216.5, and 25323  
19 of the Public Resources Code.

20 (i) An electrical corporation that serves less than 500,000 electric  
21 retail customers within the state may file with the commission a  
22 request for exemption from this section, which the commission  
23 shall grant upon a showing of good cause.

24 (j) (1) Prior to its approval pursuant to Section 851 of any  
25 divestiture of generation assets owned by an electrical corporation  
26 on or after September 24, 2002, the commission shall determine  
27 the impact of the proposed divestiture on the electrical  
28 corporation's procurement rates and shall approve a divestiture  
29 only to the extent it finds, taking into account the effect of the  
30 divestiture on procurement rates, that the divestiture is in the public  
31 interest and will result in net ratepayer benefits.

32 (2) Any electrical corporation's procurement necessitated as a  
33 result of the divestiture of generation assets on or after September  
34 24, 2002, shall be subject to the mechanisms and procedures set  
35 forth in this section only if its actual cost is less than the recent  
36 historical cost of the divested generation assets.

37 (3) Notwithstanding paragraph (2), the commission may deem  
38 proposed procurement eligible to use the procedures in this section  
39 upon its approval of asset divestiture pursuant to Section 851.

1     ~~SEC. 301.~~

2     *SEC. 290.* Section 464 of the Public Utilities Code is amended  
3 to read:

4     464. (a) Reasonable expenditures by transmission owners that  
5 are electrical corporations to plan, design, and engineer  
6 reconfiguration, replacement, or expansion of transmission facilities  
7 are in the public interest and are deemed prudent if made for the  
8 purpose of facilitating competition in electric generation markets,  
9 ensuring open access and comparable service, or maintaining or  
10 enhancing reliability, whether or not these expenditures are for  
11 transmission facilities that become operational.

12     (b) The commission and the Office of Energy Market Oversight  
13 in the Department of Energy shall jointly facilitate the efforts of  
14 the state's transmission owning electrical corporations to obtain  
15 authorization from the Federal Energy Regulatory Commission to  
16 recover reasonable expenditures made for the purposes stated in  
17 subdivision (a).

18     (c) This section does not alter or affect the recovery of the  
19 reasonable costs of other electric facilities in rates pursuant to the  
20 commission's existing ratemaking authority under this code or  
21 pursuant to the Federal Power Act (41 Stats. 1063; 16 U.S.C. Secs.  
22 791a, et seq.). The commission may periodically review and adjust  
23 depreciation schedules and rates authorized for an electric plant  
24 that is under the jurisdiction of the commission and owned by an  
25 electrical corporation and periodically review and adjust  
26 depreciation schedules and rates authorized for a gas plant that is  
27 under the jurisdiction of the commission and owned by a gas  
28 corporation, consistent with this code.

29     ~~SEC. 302.~~

30     *SEC. 291.* Section 848.1 of the Public Utilities Code is amended  
31 to read:

32     848.1. (a) No later than 120 days after the effective date of  
33 this article, and from time to time thereafter, the recovery  
34 corporation shall apply to the commission for a determination that  
35 some or all of the recovery corporation's recovery costs may be  
36 recovered through fixed recovery amounts, which would be  
37 recovery property under this article, and that any portion of the  
38 recovery corporation's federal and State of California income and  
39 franchise taxes associated with those fixed recovery amounts and  
40 not financed from proceeds of recovery bonds be recovered through

1 fixed recovery tax amounts. The recovery corporation may request  
2 this determination by the commission in a separate proceeding or  
3 in an existing proceeding, or both. The recovery corporation shall  
4 in its application specify that consumers within its service territory  
5 would benefit from reduced rates on a present value basis through  
6 the issuance of recovery bonds. The commission shall designate  
7 fixed recovery amounts and any associated fixed recovery tax  
8 amounts as recoverable in one or more financing orders if the  
9 commission determines, as part of its findings in connection with  
10 the financing order, that the designation of the fixed recovery  
11 amounts and any associated fixed recovery tax amounts, and the  
12 issuance of recovery bonds in connection with fixed recovery  
13 amounts, would reduce the rates on a present value basis that  
14 consumers within the recovery corporation's service territory would  
15 pay if the financing order were not adopted. Fixed recovery  
16 amounts and any associated fixed recovery tax amounts shall only  
17 be imposed on existing and future consumers in the service  
18 territory. Consumers within the service territory shall continue to  
19 pay fixed recovery amounts and any associated fixed tax recovery  
20 amounts until the recovery bonds are paid in full by the financing  
21 entity. Once the recovery bonds have been paid in full, the payment  
22 by consumers of fixed recovery amounts and fixed recovery tax  
23 amounts shall terminate.

24 (b) The commission shall establish an effective mechanism that  
25 ensures recovery of recovery costs through fixed recovery amounts  
26 and any associated fixed recovery tax amounts from existing and  
27 future consumers in the service territory, except the costs shall not  
28 be recoverable from any of the following:

29 (1) New load or incremental load of an existing consumer of  
30 the recovery corporation where the load is being met through a  
31 direct transaction and the transaction does not require the use of  
32 transmission or distribution facilities owned by the recovery  
33 corporation.

34 (2) Customer Generation departing load that is exempt from  
35 Department of Water Resources power charges pursuant to the  
36 commission's Decision No. 03-04-030, as modified by Decision  
37 No. 03-04-041, and as clarified and affirmed by Decision No.  
38 03-05-039, except that the load shall pay the costs as a component  
39 of and in proportion to any purchase of electricity delivered by the

1 recovery corporation under standby or other service made following  
2 its departure.

3 (3) The Department of Water Resources, or its successor for  
4 this purpose, the Department of Energy, with respect to the  
5 pumping, generation, and transmission facilities and operations of  
6 the State Water Resources Development System, except to the  
7 extent that system facilities receive electric service from the  
8 recovery corporation on or after December 19, 2003, under a  
9 commission approved tariff.

10 (4) Retail electric load, continuously served by a local publicly  
11 owned electric utility from January 1, 2000, through the effective  
12 date of the act adding this section.

13 (5) Load that thereafter comes to take electric service from a  
14 city where all the following conditions are met:

15 (A) The new load is from locations that never received electric  
16 service from the recovery corporation.

17 (B) The city owns and operates the local publicly owned electric  
18 utility.

19 (C) The local publicly owned electric utility served more than  
20 95 percent of the customers receiving electric service residing  
21 within the city limits prior to December 19, 2003.

22 (D) The city annexed the territory in which the load is located  
23 on or after December 19, 2003.

24 (E) Following annexation, the city provides all municipal  
25 services to the annexed territory that the city provides to other  
26 territory within the city limits, including electric service.

27 (F) The total load exempt from paying fixed recovery amounts  
28 and associated fixed recovery tax amounts pursuant to  
29 subparagraphs (A) through (D), inclusive, does not exceed 50  
30 megawatts, as determined by the commission, and any load above  
31 the 50 megawatt exemption amount shall be responsible for paying  
32 recovery amounts and associated fixed recovery tax amounts,  
33 except as provided in subdivision (c).

34 (c) Except as provided in paragraphs (4) and (5) of subdivision  
35 (b), the commission shall determine the extent to which fixed  
36 recovery amounts and any associated fixed recovery tax amounts  
37 are recoverable from new municipal load, consistent with the  
38 commission's determination in the limited rehearing granted in  
39 Decision 03-08-076. The determination of the commission shall

1 be made on the earlier of the date it adopts a financing order or  
2 December 31, 2004.

3 (d) Except as provided in paragraphs (4) and (5) of subdivision  
4 (b) and in subdivision (c), the obligation to pay fixed recovery  
5 amounts and any associated fixed recovery tax amounts cannot be  
6 avoided by the formation of a local publicly owned electric utility  
7 on or after December 19, 2003, or by annexation of any portion  
8 of the service territory of the recovery corporation by an existing  
9 local publicly owned electric utility.

10 (e) Recovery bonds authorized by the commission's financing  
11 orders may be issued in one or more series on or before December  
12 31, 2006.

13 (f) The commission may issue financing orders in accordance  
14 with this article to facilitate the recovery, financing, or refinancing  
15 of recovery costs. A financing order may be adopted only upon  
16 the application of the recovery corporation and shall become  
17 effective in accordance with its terms only after the recovery  
18 corporation files with the commission the recovery corporation's  
19 written consent to all terms and conditions of the financing order.  
20 A financing order may specify how amounts collected from a  
21 consumer shall be allocated between fixed recovery amounts, any  
22 associated fixed recovery tax amounts, and other charges.

23 (g) Notwithstanding Section 455.5 or 1708, or any other  
24 provision of law, except as otherwise provided in Section 848.7  
25 or in this subdivision with respect to recovery property that has  
26 been made the basis for the issuance of recovery bonds and with  
27 respect to any associated fixed recovery tax amounts, the financing  
28 order, the fixed recovery amounts and any associated fixed  
29 recovery tax amounts shall be irrevocable, and the commission  
30 shall not have authority either by rescinding, altering, or amending  
31 the financing order or otherwise, to revalue or revise for ratemaking  
32 purposes, the recovery costs or the costs of recovering, financing,  
33 or refinancing the recovery costs, determine that the fixed recovery  
34 amounts, any associated fixed recovery tax amounts or rates are  
35 unjust or unreasonable, or in any way reduce or impair the value  
36 of recovery property or of the right to receive any associated fixed  
37 recovery tax amounts either directly or indirectly by taking fixed  
38 recovery amounts or any associated fixed recovery tax amounts  
39 into account when setting other rates for the recovery corporation  
40 or when setting charges for the Department of Water Resources,

1 or its successor for this purpose, the Department of Energy; nor  
2 shall the amount of revenues arising with respect thereto be subject  
3 to reduction, impairment, postponement, or termination. Except  
4 as otherwise provided in this subdivision, the State of California  
5 does hereby pledge and agree with the recovery corporation,  
6 owners of recovery property, and holders of recovery bonds that  
7 the state shall neither limit nor alter the fixed recovery amounts,  
8 any associated fixed recovery tax amounts, recovery property,  
9 financing orders, or any rights thereunder until the recovery bonds,  
10 together with the interest thereon, are fully paid and discharged,  
11 and any associated fixed recovery tax amounts have been satisfied  
12 or, in the alternative, have been refinanced through an additional  
13 issue of recovery bonds. However, this section does not preclude  
14 this limitation or alteration if and when adequate provision is made  
15 by law for the protection of the recovery corporation, owners, and  
16 holders. The financing entity is authorized to include this pledge  
17 and undertaking for the state in these recovery bonds.  
18 Notwithstanding any other provision of this section, the  
19 commission shall approve adjustments to the fixed recovery  
20 amounts and any associated fixed recovery tax amounts as may  
21 be necessary to ensure timely recovery of all recovery costs that  
22 are the subject of the pertinent financing order, and the costs of  
23 capital associated with the recovery, financing, or refinancing  
24 thereof, including servicing and retiring the recovery bonds  
25 contemplated by the financing order. When setting other rates for  
26 the recovery corporation, this subdivision does not prevent the  
27 commission from taking into account either of the following:

28 (1) Any collection of fixed recovery amounts in excess of  
29 amounts actually required to pay recovery costs financed or  
30 refinanced by recovery bonds.

31 (2) Any collection of fixed recovery tax amounts in excess of  
32 amounts actually required to pay federal and State of California  
33 income and franchise taxes associated with fixed recovery amounts;  
34 provided that this would not result in a recharacterization of the  
35 tax, accounting, and other intended characteristics of the financing,  
36 including, but not limited to, either of the following:

37 (A) Treating the recovery bonds as debt of the recovery  
38 corporation or its affiliates for federal income tax purposes.

39 (B) Treating the transfer of the recovery property by the recovery  
40 corporation as a true sale for bankruptcy purposes.

1 (h) (1) Financing orders issued under this article do not  
2 constitute a debt or liability of the state or of any political  
3 subdivision thereof, and do not constitute a pledge of the full faith  
4 and credit of the state or any of its political subdivisions, but are  
5 payable solely from the funds provided therefor under this article  
6 and shall be consistent with Sections 1 and 18 of Article XVI of  
7 the California Constitution. This subdivision shall in no way  
8 preclude bond guarantees or enhancements pursuant to this article.  
9 All recovery bonds shall contain on the face thereof a statement  
10 to the following effect: “Neither the full faith and credit nor the  
11 taxing power of the State of California is pledged to the payment  
12 of the principal of, or interest on, this bond.”

13 (2) The issuance of recovery bonds under this article shall not  
14 directly, indirectly, or contingently obligate the state or any  
15 political subdivision thereof to levy or to pledge any form of  
16 taxation therefor or to make any appropriation for their payment.

17 (i) The commission shall establish procedures for the expeditious  
18 processing of applications for financing orders, including the  
19 approval or disapproval thereof within 120 days of the recovery  
20 corporation making application therefor. The commission shall  
21 provide in any financing order for a procedure for the expeditious  
22 approval by the commission of periodic adjustments to the fixed  
23 recovery amounts and any associated fixed recovery tax amounts  
24 that are the subject of the pertinent financing order, as required by  
25 subdivision (g). The procedure shall require the commission to  
26 determine whether the adjustments are required on each anniversary  
27 of the issuance of the financing order, and at the additional intervals  
28 as may be provided for in the financing order, and for the  
29 adjustments, if required, to be approved within 90 days of each  
30 anniversary of the issuance of the financing order, or of each  
31 additional interval provided for in the financing order.

32 (j) Fixed recovery amounts are recovery property when, and to  
33 the extent that, a financing order authorizing the fixed recovery  
34 amounts has become effective in accordance with this article, and  
35 the recovery property shall thereafter continuously exist as property  
36 for all purposes with all of the rights and privileges of this article  
37 for the period and to the extent provided in the financing order,  
38 but in any event until the recovery bonds are paid in full, including  
39 all principal, interest, premium, costs, and arrearages thereon.

1 (k) This article and any financing order made pursuant to this  
2 article do not amend, reduce, modify, or otherwise affect the right  
3 of the Department of Water Resources, or its successor for this  
4 purpose, the Department of Energy, to recover its revenue  
5 requirements and to receive the charges that it is to recover and  
6 receive pursuant to Division 27 (commencing with Section 80000)  
7 of the Water Code, or pursuant to any agreement entered into by  
8 the commission and the department pursuant to that division.

9 ~~SEC. 303.~~

10 *SEC. 292.* Section 1001 of the Public Utilities Code is amended  
11 to read:

12 1001. (a) (1) A railroad corporation whose railroad is operated  
13 primarily by electric energy or a street railroad corporation, gas  
14 corporation, electrical corporation, telegraph corporation, telephone  
15 corporation, water corporation, or sewer system corporation shall  
16 not begin the construction of a street railroad, or of a line, plant,  
17 or system, or of any extension thereof, without having first obtained  
18 from the commission a certificate that the present or future public  
19 convenience and necessity require or will require that construction.

20 (2) This article shall not be construed to require any corporation  
21 described in paragraph (1) to secure a certificate for an extension  
22 within any city or city and county within which it has theretofore  
23 lawfully commenced operations, or for an extension into territory  
24 either within or without a city or city and county contiguous to its  
25 street railroad, or line, plant, or system, and not theretofore served  
26 by a public utility of like character, or for an extension within or  
27 to territory already served by it, necessary in the ordinary course  
28 of its business. If any public utility, in constructing or extending  
29 its line, plant, or system, interferes or is about to interfere with the  
30 operation of the line, plant, or system of any other public utility  
31 or of the water system of a public agency, already constructed, the  
32 commission, on complaint of the public utility or public agency  
33 claiming to be injuriously affected, may, after hearing, make an  
34 order and prescribe terms and conditions for the location of the  
35 lines, plants, or systems affected as to it may seem just and  
36 reasonable.

37 (b) Notwithstanding subdivision (a) or any other provision of  
38 law, ~~on or after January 1, 2013,~~ all responsibilities of the  
39 commission with respect to the certification of an electric  
40 transmission line, plant, or system, or any extension thereof,

1 carrying electricity to the interconnected grid, or that is part of the  
 2 interconnected grid, but not including electric distribution facilities,  
 3 are hereby transferred to the exclusive jurisdiction of the Secretary  
 4 of Energy, in consultation with the California Energy ~~Commission~~  
 5 *Board*. All applications for certification regarding a line, facility,  
 6 plant, or system described in this subdivision shall be heard and  
 7 decided by the California Energy ~~Commission~~ *Board* within the  
 8 department. A decision of the department or the California Energy  
 9 ~~Commission~~ *Board* with respect to matters transferred pursuant  
 10 to this subdivision shall be conclusive as to all matters determined.

11 (c) For the purposes of this section, an electric line, plant, or  
 12 system, or extension thereof, shall be considered “electric  
 13 transmission” for either of the following:

14 (1) It has a maximum rated voltage of 200 kilovolts or greater.

15 (2) It has a maximum rated voltage of 100 kilovolts or greater  
 16 and certification is sought following inclusion of that facility as  
 17 an element of a final transmission expansion plan for the  
 18 Independent System Operator.

19 (d) In hearing and deciding an application pursuant to this  
 20 section, the California Energy ~~Commission~~ *Board* shall consider  
 21 and make any necessary findings on all factors required by Sections  
 22 1001 to 1005.5, inclusive, and any other provision of law, including  
 23 the anticipated effects of any proposed project on consumer rates,  
 24 on the environment, and on the public benefits expected to result  
 25 from any project.

26 (e) The Department of Energy, in consultation with the Public  
 27 Utilities Commission, shall promptly establish a mechanism for  
 28 the Public Utilities Commission to timely advise the department  
 29 regarding the retail rate impacts of the decision made by the  
 30 California Energy ~~Commission~~ *Board* and the department.

31 ~~SEC. 304.~~

32 *SEC. 293.* Section 1731 of the Public Utilities Code is amended  
 33 to read:

34 1731. (a) The commission shall set an effective date when  
 35 issuing an order or decision. The commission may set the effective  
 36 date of an order or decision prior to the date of issuance of the  
 37 order or decision.

38 (b) (1) After any order or decision has been made by the  
 39 commission, any party to the action or proceeding, or any  
 40 stockholder or bondholder or other party pecuniarily interested in

1 the public utility affected, may apply for a rehearing in respect to  
2 any matters determined in the action or proceeding and specified  
3 in the application for rehearing. The commission may grant and  
4 hold a rehearing on those matters, if in its judgment sufficient  
5 reason is made to appear. No cause of action arising out of any  
6 order or decision of the commission shall accrue in any court to  
7 any corporation or person unless the corporation or person has  
8 filed an application to the commission for a rehearing within 30  
9 days after the date of issuance or within 10 days after the date of  
10 issuance in the case of an order issued pursuant to either Article  
11 5 (commencing with Section 816) or Article 6 (commencing with  
12 Section 851) of Chapter 4 relating to security transactions and the  
13 transfer or encumbrance of utility property.

14 (2) The commission shall notify the parties of the issuance of  
15 an order or decision by either mail or electronic transmission.  
16 Notification of the parties may be accomplished by one of the  
17 following methods:

18 (A) Mailing the order or decision to the parties to the action or  
19 proceeding.

20 (B) If a party to an action or proceeding consents in advance to  
21 receive notice of any order or decision related to the action or  
22 proceeding by electronic mail address, notification of the party  
23 may be accomplished by transmitting an electronic copy of the  
24 official version of the order or decision to the party if the party  
25 has provided an electronic mail address to the commission.

26 (C) If a party to an action or proceeding consents in advance to  
27 receive notice of any order or decision related to the action or  
28 proceeding by electronic mail address, notification of the party  
29 may be accomplished by transmitting a link to an Internet Web  
30 site where the official version of the order or decision is readily  
31 available to the party if the party has provided an electronic mail  
32 address to the commission.

33 (3) For the purposes of this article, “date of issuance” means  
34 the mailing or electronic transmission date that is stamped on the  
35 official version of the order or decision

36 (c) No cause of action arising out of any order or decision of  
37 the commission construing, applying, or implementing the  
38 provisions of Chapter 4 of the Statutes of the 2001–02 First  
39 Extraordinary Session that (1) relates to the determination or  
40 implementation of the department’s revenue requirements, or the

1 establishment or implementation of bond or power charges  
2 necessary to recover those revenue requirements, or (2) in the sole  
3 determination of the Department of Water Resources, or its  
4 successor for this purpose, the Department of Energy, the expedited  
5 review of order or decision of the commission is necessary or  
6 desirable, for the maintenance of any credit ratings on any bonds  
7 or notes of the department issued pursuant to Division 27  
8 (commencing with Section 80000) of the Water Code or for the  
9 department to meet its obligations with respect to any bonds or  
10 notes pursuant to that division, shall accrue in any court to any  
11 corporation or person unless the corporation or person has filed  
12 an application with the commission for a rehearing within 10 days  
13 after the date of issuance of the order or decision. The Department  
14 of Water Resources, or its successor for this purpose, shall notify  
15 the commission of any determination pursuant to paragraph (2) of  
16 this subdivision prior to the issuance by the commission of any  
17 order or decision construing, applying, or implementing the  
18 provisions of Chapter 4 of the Statutes of the 2001–02 First  
19 Extraordinary Session. The commission shall issue its decision  
20 and order on rehearing within 20 days after the filing of the  
21 application.

22 ~~SEC. 305.~~

23 *SEC. 294.* Section 1768 of the Public Utilities Code is amended  
24 to read:

25 1768. The following procedures shall apply to judicial review  
26 of an order or decision of the commission interpreting,  
27 implementing, or applying the provisions of Chapter 4 of the  
28 Statutes of the 2001–02 First Extraordinary Session that (1) relates  
29 to the determination or implementation of the revenue requirements  
30 of the Department of Water Resources, or its successor for this  
31 purpose, the Department of Energy, or the establishment or  
32 implementation of bond or power charges necessary to recover  
33 those revenue requirements, or (2) in the sole determination of the  
34 department, the expedited review of an order or decision of the  
35 commission is necessary or desirable, for the maintenance of any  
36 credit ratings on any bonds or notes of the department issued  
37 pursuant to Division 27 (commencing with Section 80000) of the  
38 Water Code or for the department to meet its obligations with  
39 respect to any bonds or notes pursuant to that division:

1 (a) Within 30 days after the commission issues its order or  
2 decision denying the application for a rehearing, or, if the  
3 application is granted, then within 30 days after the commission  
4 issues its decision on rehearing, any aggrieved party may petition  
5 for a writ of review in the California Supreme Court for the purpose  
6 of determining the lawfulness of the original order or decision or  
7 of the order or decision on rehearing. If the writ issues, it shall be  
8 made returnable at a time and place specified by court order and  
9 shall direct the commission to certify its record in the case to the  
10 court within the time specified. No order of the commission  
11 interpreting, implementing, or applying the provisions of Chapter  
12 4 of the Statutes of the 2001–02 First Extraordinary Session shall  
13 be subject to review in the courts of appeal.

14 (b) The petition for review shall be served upon the executive  
15 director and the general counsel of the commission either  
16 personally or by service at the office of the commission.

17 (c) For purposes of this section, the issuance of a decision or  
18 the granting of an application shall be construed to have occurred  
19 on the date of issuance, as defined in paragraph (4) of subdivision  
20 (b) of Section 1731.

21 (d) All actions and proceedings under this section and all actions  
22 or proceedings to which the commission or the people of the State  
23 of California are parties in which any question arises under this  
24 section, or under or concerning any order or decision of the  
25 commission under this section, shall be preferred over, and shall  
26 be heard and determined in preference to, all other civil business  
27 except election causes, irrespective of position on the calendar.

28 (e) The provisions of this article apply to actions under this  
29 section to the extent that those provisions are not in conflict with  
30 this section.

31 ~~SEC. 306.~~

32 *SEC. 295.* Section 1822 of the Public Utilities Code is amended  
33 to read:

34 1822. (a) Any computer model that is the basis for any  
35 testimony or exhibit in a hearing or proceeding before the  
36 commission shall be available to, and subject to verification by,  
37 the commission and parties to the hearing or proceedings to the  
38 extent necessary for cross-examination or rebuttal, subject to  
39 applicable rules of evidence, except that verification is not required  
40 for any electricity demand model or forecast prepared by the

1 Department of Energy pursuant to Section 25309 or 25402.1 of  
2 the Public Resources Code and approved and adopted after a  
3 hearing during which testimony was offered subject to  
4 cross-examination. The commission shall afford each of these  
5 electricity demand models or forecasts the evidentiary weight it  
6 determines appropriate. This subdivision does not require the  
7 department to approve or adopt any electricity demand model or  
8 forecast.

9 (b) Testimony presented in a hearing or proceeding before the  
10 commission that is based in whole, or in part, on a computer model  
11 shall include a listing of all the equations and assumptions built  
12 into the model.

13 (c) A database that is used for any testimony or exhibit in a  
14 hearing or proceeding before the commission shall be reasonably  
15 accessible to the commission staff and parties to the hearing or  
16 proceeding to the extent necessary for cross-examination or  
17 rebuttal, subject to applicable rules of evidence, as applied in  
18 commission proceedings.

19 (d) The commission shall adopt rules and procedures to meet  
20 the requirements specified in subdivisions (a), (b), and (c). These  
21 rules shall include procedural safeguards that protect databases  
22 and models not owned by the public utility.

23 (e) The commission shall establish appropriate procedures for  
24 determining the appropriate level of compensation for a party's  
25 access.

26 (f) Each party shall have access to the computer programs and  
27 models of each other party to the extent provided by Section 1822.  
28 The commission shall not require a utility to provide a remote  
29 terminal or other direct physical link to the computer systems of  
30 a utility to a third party.

31 (g) The commission shall verify, validate, and review the  
32 computer models of any electric corporation that are used for the  
33 purpose of planning, operating, constructing, or maintaining the  
34 corporation's electricity transmission system, and that are the basis  
35 for testimony and exhibits in hearings and proceedings before the  
36 commission.

37 (h) The transmission computer models shall be available to, and  
38 subject to verification by, each party to a commission proceeding  
39 in accordance with subdivision (a) of Section 1822, and regulations  
40 adopted pursuant to subdivision (d) of Section 1822.

1     ~~SEC. 307.~~

2     *SEC. 296.* Section 2774.6 of the Public Utilities Code is  
3 amended to read:

4     2774.6. The commission, in consultation with the Department  
5 of Energy, shall develop a program for residential and commercial  
6 customer air-conditioning load control, as an element of each  
7 electrical corporation’s tariffed service offerings paid for with  
8 electric rates. The goal of the program shall be to contribute to the  
9 adequacy of electricity supply and to help customers reduce their  
10 electric bills in a cost-effective manner. The program may include  
11 peak load reduction programs for residential and commercial  
12 air-conditioning systems, if the commission determines that the  
13 inclusion would be cost effective.

14     ~~SEC. 308.~~

15     *SEC. 297.* Section 2826.5 of the Public Utilities Code is  
16 amended to read:

17     2826.5. (a) As used in this section, the following terms have  
18 the following meanings:

19     (1) “Benefiting account” means an electricity account, or more  
20 than one account, mutually agreed upon by Pacific Gas and Electric  
21 Company and the City of Davis.

22     (2) “Bill credit” means credits calculated based upon the  
23 electricity generation component of the rate schedule applicable  
24 to a benefiting account, as applied to the net metered quantities of  
25 electricity.

26     (3) “PVUSA” means the photovoltaic electricity generation  
27 facility selected by the City of Davis, located at 24662 County  
28 Road, Davis, California, with a rated peak electricity generation  
29 capacity of 600 kilowatts, and as it may be expanded, not to exceed  
30 one megawatt of peak generation capacity.

31     (4) “Net metered” means the electricity output from the PVUSA.

32     (5) “Environmental attributes” associated with the PVUSA  
33 include, but are not limited to, the credits, benefits, emissions  
34 reductions, environmental air quality credits, and emissions  
35 reduction credits, offsets, and allowances, however entitled  
36 resulting from the avoidance of the emission of any gas, chemical,  
37 or other substance attributable to the PVUSA.

38     (b) The City of Davis may elect to designate a benefiting  
39 account, or more than one account, to receive bill credit for the

1 electricity generated by the PVUSA, if all of the following  
 2 conditions are met:

3 (1) A benefiting account receives service under a time-of-use  
 4 rate schedule.

5 (2) The electricity output of the PVUSA is metered for time of  
 6 use to allow allocation of each bill credit to correspond to the  
 7 time-of-use period of a benefiting account.

8 (3) All costs associated with the metering requirements of  
 9 paragraphs (1) and (2) are the responsibility of the City of Davis.

10 (4) All electricity delivered to the electrical grid by the PVUSA  
 11 is the property of Pacific Gas and Electric Company.

12 (5) PVUSA does not sell electricity delivered to the electrical  
 13 grid to a third party.

14 (6) The right, title, and interest in the environmental attributes  
 15 associated with the electricity delivered to the electrical grid by  
 16 the PVUSA are the property of Nuon Renewable Ventures USA,  
 17 LLC.

18 (c) A benefiting account shall be billed on a monthly basis, as  
 19 follows:

20 (1) For all electricity usage, the rate schedule applicable to the  
 21 benefiting account, including any surcharge, exit fee, or other cost  
 22 recovery mechanism, as determined by the commission, to  
 23 reimburse the Department of Water Resources, or its successor  
 24 for this purpose, the Department of Energy, for purchases of  
 25 electricity, pursuant to Division 27 (commencing with Section  
 26 80000) of the Water Code.

27 (2) The rate schedule for the benefiting account shall also  
 28 provide credit for the generation component of the time-of-use  
 29 rates for the electricity generated by the PVUSA that is delivered  
 30 to the electrical grid. The generation component credited to the  
 31 benefiting account may not include the surcharge, exit fee, or other  
 32 cost recovery mechanism, as determined by the commission, to  
 33 reimburse the Department of Water Resources, or its successor  
 34 for this purpose, the Department of Energy, for purchases of  
 35 electricity, pursuant to Division 27 (commencing with Section  
 36 80000) of the Water Code.

37 (3) If in any billing cycle, the charge pursuant to paragraph (1)  
 38 for electricity usage exceeds the billing credit pursuant to paragraph  
 39 (2), the City of Davis shall be charged for the difference.

1 (4) If in any billing cycle, the billing credit pursuant to paragraph  
2 (2), exceeds the charge for electricity usage pursuant to paragraph  
3 (1), the difference shall be carried forward as a credit to the next  
4 billing cycle.

5 (5) After the electricity usage charge pursuant to paragraph (1)  
6 and the credit pursuant to paragraph (2) are determined for the last  
7 billing cycle of a calendar year, any remaining credit resulting  
8 from the application of this section shall be reset to zero.

9 (d) Not more frequently than once per year, and upon providing  
10 Pacific Gas and Electric Company with a minimum of 60 days  
11 notice, the City of Davis may elect to change a benefiting account.  
12 Any credit resulting from the application of this section earned  
13 prior to the change in a benefiting account that has not been used  
14 as of the date of the change in the benefit account, shall be applied,  
15 and may only be applied, to a benefiting account as changed.

16 (e) Pacific Gas and Electric Company shall file an advice letter  
17 with the Public Utilities Commission, that complies with this  
18 section, not later than 10 days after the effective date of this section,  
19 proposing a rate tariff for a benefiting account. The commission,  
20 within 30 days of the date of filing, shall approve the proposed  
21 tariff, or specify conforming changes to be made by Pacific Gas  
22 and Electric Company to be filed in a new advice letter.

23 (f) The City of Davis may terminate its election pursuant to  
24 subdivision (b), upon providing Pacific Gas and Electric Company  
25 with a minimum of 60 days notice. Should the City of Davis sell  
26 its interest in the PVUSA, or sell the electricity generated by the  
27 PVUSA, in a manner other than required by this section, upon the  
28 date of either event, and the earliest date if both events occur, no  
29 further bill credit pursuant to paragraph (2) of subdivision (b) may  
30 be earned. Only credit earned prior to that date shall be made to a  
31 benefiting account.

32 (g) The Legislature finds and declares that credit for a benefiting  
33 account for the electricity output from the PVUSA are in the public  
34 interest in order to value the production of this unique, wholly  
35 renewable resource electricity generation facility located in, and  
36 owned in part by, the City of Davis. Because of the unique  
37 circumstances applicable only to the PVUSA a statute of general  
38 applicability cannot be enacted within the meaning of subdivision  
39 (b) of Section 16 of Article IV of the California Constitution.  
40 Therefore, this special statute is necessary.

1     ~~SEC. 309.~~

2     *SEC. 298.* Section 2827 of the Public Utilities Code is amended  
3 to read:

4     2827. (a) The Legislature finds and declares that a program  
5 to provide net energy metering, co-energy metering, and wind  
6 energy co-metering for eligible customer-generators is one way  
7 to encourage substantial private investment in renewable energy  
8 resources, stimulate in-state economic growth, reduce demand for  
9 electricity during peak consumption periods, help stabilize  
10 California's energy supply infrastructure, enhance the continued  
11 diversification of California's energy resource mix, and reduce  
12 interconnection and administrative costs for electricity suppliers.

13     (b) As used in this section, the following terms have the  
14 following meanings:

15     (1) "Co-energy metering" means a program that is the same in  
16 all other respects as a net energy metering program, except that  
17 the local publicly owned electric utility has elected to apply a  
18 generation-to-generation energy and time-of-use credit formula  
19 as provided in subdivision (i).

20     (2) "Electrical cooperative" means an electrical cooperative as  
21 defined in Section 2776.

22     (3) "Electric distribution utility or cooperative" means an  
23 electrical corporation, a local publicly owned electric utility, or an  
24 electrical cooperative, or any other entity, except an electric service  
25 provider, that offers electrical service. This section does not apply  
26 to a local publicly owned electric utility that serves more than  
27 750,000 customers and that also conveys water to its customers.

28     (4) "Eligible customer-generator" means a residential, small  
29 commercial customer as defined in subdivision (h) of Section 331,  
30 commercial, industrial, or agricultural customer of an electricity  
31 distribution utility or cooperative, who uses a solar or a wind  
32 turbine electrical generating facility, or a hybrid system of both,  
33 with a capacity of not more than one megawatt that is located on  
34 the customer's owned, leased, or rented premises, is interconnected  
35 and operates in parallel with the electric grid, and is intended  
36 primarily to offset part or all of the customer's own electrical  
37 requirements.

38     (5) "Net energy metering" means measuring the difference  
39 between the electricity supplied through the electric grid and the  
40 electricity generated by an eligible customer-generator and fed

1 back to the electric grid over a 12-month period as described in  
2 subdivision (h). An eligible customer-generator who already owns  
3 an existing solar or wind turbine electrical generating facility, or  
4 a hybrid system of both, is eligible to receive net energy metering  
5 service in accordance with this section.

6 (6) “Ratemaking authority” means, for an electrical corporation,  
7 electrical cooperative, or electric service provider, the commission,  
8 and for a local publicly owned electric utility, the local elected  
9 body responsible for setting the rates of the local publicly owned  
10 utility.

11 (7) “Wind energy co-metering” means any wind energy project  
12 greater than 50 kilowatts, but not exceeding one megawatt, where  
13 the difference between the electricity supplied through the electric  
14 grid and the electricity generated by an eligible customer-generator  
15 and fed back to the electric grid over a 12-month period is as  
16 described in subdivision (h). Wind energy co-metering shall be  
17 accomplished pursuant to Section 2827.8.

18 (c) (1) Every electricity distribution utility or cooperative shall  
19 develop a standard contract or tariff providing for net energy  
20 metering, and shall make this standard contract or tariff available  
21 to eligible customer-generators, upon request, on a  
22 first-come-first-served basis until the time that the total rated  
23 generating capacity used by eligible customer-generators exceeds  
24 2.5 percent of the electricity distribution utility or cooperative’s  
25 aggregate customer peak demand. Net energy metering shall be  
26 accomplished using a single meter capable of registering the flow  
27 of electricity in two directions. An additional meter or meters to  
28 monitor the flow of electricity in each direction may be installed  
29 with the consent of the customer-generator, at the expense of the  
30 electricity distribution utility or cooperative, and the additional  
31 metering shall be used only to provide the information necessary  
32 to accurately bill or credit the customer-generator pursuant to  
33 subdivision (h), or to collect solar or wind electric generating  
34 system performance information for research purposes. If the  
35 existing electrical meter of an eligible customer-generator is not  
36 capable of measuring the flow of electricity in two directions, the  
37 customer-generator shall be responsible for all expenses involved  
38 in purchasing and installing a meter that is able to measure  
39 electricity flow in two directions. If an additional meter or meters

1 are installed, the net energy metering calculation shall yield a result  
 2 identical to that of a single meter.

3 (2) (A) On an annual basis, beginning in 2003, every electricity  
 4 distribution utility or cooperative shall make available to the  
 5 ratemaking authority information on the total rated generating  
 6 capacity used by eligible customer-generators that are customers  
 7 of that provider in the provider’s service area.

8 (B) An electric service provider operating pursuant to Section  
 9 394 shall make available to the ratemaking authority the  
 10 information required by this paragraph for each eligible  
 11 customer-generator that is their customer for each service area of  
 12 an electric corporation, local publicly owned electric utility, or  
 13 electrical cooperative, in which the customer has net energy  
 14 metering.

15 (C) The ratemaking authority shall develop a process for making  
 16 the information required by this paragraph available to electricity  
 17 distribution utilities and cooperatives, and for using that  
 18 information to determine when, pursuant to paragraphs (1) and  
 19 (3), an electricity distribution utility or cooperative is not obligated  
 20 to provide net energy metering to additional customer-generators  
 21 in its service area.

22 (3) An electricity distribution utility or cooperative is not  
 23 obligated to provide net energy metering to additional  
 24 customer-generators in its service area when the combined total  
 25 peak demand of all customer-generators served by all the electricity  
 26 distribution utilities or cooperatives in that service area furnishing  
 27 net energy metering to eligible customer-generators exceeds 2.5  
 28 percent of the aggregate customer peak demand of those electricity  
 29 distribution utilities or cooperatives.

30 (4) By January 1, 2010, the commission, in consultation with  
 31 the Energy Commission, shall submit a report to the Governor and  
 32 the Legislature on the costs and benefits of net energy metering,  
 33 wind energy co-metering, and co-energy metering to participating  
 34 customers and nonparticipating customers and with options to  
 35 replace the economic costs and benefits of net energy metering,  
 36 wind energy co-metering, and co-energy metering with a  
 37 mechanism that more equitably balances the interests of  
 38 participating and nonparticipating customers, and that incorporates  
 39 the findings of the report on economic and environmental costs  
 40 and benefits of net metering required by subdivision (n).

1 (d) Every electricity distribution utility or cooperative shall  
2 make all necessary forms and contracts for net energy metering  
3 service available for download from the Internet.

4 (e) (1) Every electricity distribution utility or cooperative shall  
5 ensure that requests for establishment of net energy metering are  
6 processed in a time period not exceeding that for similarly situated  
7 customers requesting new electric service, but not to exceed 30  
8 working days from the date it receives a completed application  
9 form for net energy metering service, including a signed  
10 interconnection agreement from an eligible customer-generator  
11 and the electric inspection clearance from the governmental  
12 authority having jurisdiction.

13 (2) Every electricity distribution utility or cooperative shall  
14 ensure that requests for an interconnection agreement from an  
15 eligible customer-generator are processed in a time period not to  
16 exceed 30 working days from the date it receives a completed  
17 application form from the eligible customer-generator for an  
18 interconnection agreement.

19 (3) If an electricity distribution utility or cooperative is unable  
20 to process a request within the allowable timeframe pursuant to  
21 paragraph (1) or (2), it shall notify the eligible customer-generator  
22 and the ratemaking authority of the reason for its inability to  
23 process the request and the expected completion date.

24 (f) (1) If a customer participates in direct transactions pursuant  
25 to paragraph (1) of subdivision (b) of Section 365 with an electric  
26 service provider that does not provide distribution service for the  
27 direct transactions, the electricity distribution utility or cooperative  
28 that provides distribution service for an eligible customer-generator  
29 is not obligated to provide net energy metering to the customer.

30 (2) If a customer participates in direct transactions pursuant to  
31 paragraph (1) of subdivision (b) of Section 365 with an electric  
32 service provider, and the customer is an eligible  
33 customer-generator, the electricity distribution utility or cooperative  
34 that provides distribution service for the direct transactions may  
35 recover from the customer's electric service provider the  
36 incremental costs of metering and billing service related to net  
37 energy metering in an amount set by the ratemaking authority.

38 (g) Except for the time-variant kilowatthour pricing portion of  
39 any tariff adopted by the commission pursuant to paragraph (4) of  
40 subdivision (a) of Section 2851, each net energy metering contract

1 or tariff shall be identical, with respect to rate structure, all retail  
2 rate components, and any monthly charges, to the contract or tariff  
3 to which the same customer would be assigned if the customer did  
4 not use an eligible solar or wind electrical generating facility,  
5 except that eligible customer-generators shall not be assessed  
6 standby charges on the electrical generating capacity or the  
7 kilowatthour production of an eligible solar or wind electrical  
8 generating facility. The charges for all retail rate components for  
9 eligible customer-generators shall be based exclusively on the  
10 customer-generator's net kilowatthour consumption over a  
11 12-month period, without regard to the customer-generator's choice  
12 as to whom it purchases electricity that is not self-generated. Any  
13 new or additional demand charge, standby charge, customer charge,  
14 minimum monthly charge, interconnection charge, or any other  
15 charge that would increase an eligible customer-generator's costs  
16 beyond those of other customers who are not eligible  
17 customer-generators in the rate class to which the eligible  
18 customer-generator would otherwise be assigned if the customer  
19 did not own, lease, rent, or otherwise operate an eligible solar or  
20 wind electrical generating facility are contrary to the intent of this  
21 section, and shall not form a part of net energy metering contracts  
22 or tariffs.

23 (h) For eligible residential and small commercial  
24 customer-generators, the net energy metering calculation shall be  
25 made by measuring the difference between the electricity supplied  
26 to the eligible customer-generator and the electricity generated by  
27 the eligible customer-generator and fed back to the electric grid  
28 over a 12-month period. The following rules shall apply to the  
29 annualized net metering calculation:

30 (1) The eligible residential or small commercial  
31 customer-generator shall, at the end of each 12-month period  
32 following the date of final interconnection of the eligible  
33 customer-generator's system with an electricity distribution utility  
34 or cooperative, and at each anniversary date thereafter, be billed  
35 for electricity used during that 12-month period. The electricity  
36 distribution utility or cooperative shall determine if the eligible  
37 residential or small commercial customer-generator was a net  
38 consumer or a net producer of electricity during that period.

39 (2) At the end of each 12-month period, where the electricity  
40 supplied during the period by the electricity distribution utility or

1 cooperative exceeds the electricity generated by the eligible  
2 residential or small commercial customer-generator during that  
3 same period, the eligible residential or small commercial  
4 customer-generator is a net electricity consumer and the electricity  
5 distribution utility or cooperative shall be owed compensation for  
6 the eligible customer-generator's net kilowatthour consumption  
7 over that 12-month period. The compensation owed for the eligible  
8 residential or small commercial customer-generator's consumption  
9 shall be calculated as follows:

10 (A) For all eligible customer-generators taking service under  
11 contracts or tariffs employing "baseline" and "over baseline" rates  
12 or charges, any net monthly consumption of electricity shall be  
13 calculated according to the terms of the contract or tariff to which  
14 the same customer would be assigned to, or be eligible for, if the  
15 customer was not an eligible customer-generator. If those same  
16 customer-generators are net generators over a billing period, the  
17 net kilowatthours generated shall be valued at the same price per  
18 kilowatthour as the electricity distribution utility or cooperative  
19 would charge for the baseline quantity of electricity during that  
20 billing period, and if the number of kilowatthours generated  
21 exceeds the baseline quantity, the excess shall be valued at the  
22 same price per kilowatthour as the electricity distribution utility  
23 or cooperative would charge for electricity over the baseline  
24 quantity during that billing period.

25 (B) For all eligible customer-generators taking service under  
26 contracts or tariffs employing "time-of-use" rates or charges, any  
27 net monthly consumption of electricity shall be calculated  
28 according to the terms of the contract or tariff to which the same  
29 customer would be assigned to, or be eligible for, if the customer  
30 was not an eligible customer-generator. When those same  
31 customer-generators are net generators during any discrete  
32 time-of-use period, the net kilowatthours produced shall be valued  
33 at the same price per kilowatthour as the electricity distribution  
34 utility or cooperative would charge for retail kilowatthour sales  
35 during that same "time-of-use" period. If the eligible  
36 customer-generator's "time-of-use" electrical meter is unable to  
37 measure the flow of electricity in two directions, subparagraph  
38 (A) of paragraph (1) of subdivision (c) shall apply.

39 (C) For all eligible residential and small commercial  
40 customer-generators and for each billing period, the net balance

1 of moneys owed to the electricity distribution utility or cooperative  
2 for net consumption of electricity or credits owed to the eligible  
3 customer-generator for net generation of electricity shall be carried  
4 forward as a monetary value until the end of each 12-month period.  
5 For all eligible commercial, industrial, and agricultural  
6 customer-generators, the net balance of moneys owed shall be paid  
7 in accordance with the electricity distribution utility or  
8 cooperative's normal billing cycle, except that if the eligible  
9 commercial, industrial, or agricultural customer-generator is a net  
10 electricity producer over a normal billing cycle, any excess  
11 kilowatthours generated during the billing cycle shall be carried  
12 over to the following billing period as a monetary value, calculated  
13 according to the procedures set forth in this section, and appear as  
14 a credit on the eligible customer-generator's account, until the end  
15 of the annual period when paragraph (3) shall apply.

16 (3) At the end of each 12-month period, where the electricity  
17 generated by the eligible customer-generator during the 12-month  
18 period exceeds the electricity supplied by the electricity distribution  
19 utility or cooperative during that same period, the eligible  
20 customer-generator is a net electricity producer and the electricity  
21 distribution utility or cooperative shall retain any excess  
22 kilowatthours generated during the prior 12-month period. The  
23 eligible customer-generator shall not be owed any compensation  
24 for those excess kilowatthours unless the electricity distribution  
25 utility or cooperative enters into a purchase agreement with the  
26 eligible customer-generator for those excess kilowatthours.

27 (4) The electricity distribution utility or cooperative shall provide  
28 every eligible residential or small commercial customer-generator  
29 with net electricity consumption information with each regular  
30 bill. That information shall include the current monetary balance  
31 owed the electricity distribution utility or cooperative for net  
32 electricity consumed, or the current amount of excess electricity  
33 produced, since the last 12-month period ended. Notwithstanding  
34 this subdivision, an electricity distribution utility or cooperative  
35 shall permit that customer to pay monthly for net energy consumed.

36 (5) If an eligible residential or small commercial  
37 customer-generator terminates the customer relationship with the  
38 electricity distribution utility or cooperative, the electricity  
39 distribution utility or cooperative shall reconcile the eligible  
40 customer-generator's consumption and production of electricity

1 during any part of a 12-month period following the last  
2 reconciliation, according to the requirements set forth in this  
3 subdivision, except that those requirements shall apply only to the  
4 months since the most recent 12-month bill.

5 (6) If an electric service provider or electricity distribution utility  
6 or cooperative providing net energy metering to a residential or  
7 small commercial customer-generator ceases providing that electric  
8 service to that customer during any 12-month period, and the  
9 customer-generator enters into a new net energy metering contract  
10 or tariff with a new electric service provider or electricity  
11 distribution utility or cooperative, the 12-month period, with respect  
12 to that new electric service provider or electricity distribution utility  
13 or cooperative, shall commence on the date on which the new  
14 electric service provider or electricity distribution utility or  
15 cooperative first supplies electric service to the customer-generator.

16 (i) Notwithstanding any other provisions of this section, the  
17 following provisions shall apply to an eligible customer-generator  
18 with a capacity of more than 10 kilowatts, but not exceeding one  
19 megawatt, that receives electric service from a local publicly owned  
20 electric utility that has elected to utilize a co-energy metering  
21 program unless the local publicly owned electric utility chooses  
22 to provide service for eligible customer-generators with a capacity  
23 of more than 10 kilowatts in accordance with subdivisions (g) and  
24 (h):

25 (1) The eligible customer-generator shall be required to utilize  
26 a meter, or multiple meters, capable of separately measuring  
27 electricity flow in both directions. All meters shall provide  
28 “time-of-use” measurements of electricity flow, and the customer  
29 shall take service on a time-of-use rate schedule. If the existing  
30 meter of the eligible customer-generator is not a time-of-use meter  
31 or is not capable of measuring total flow of energy in both  
32 directions, the eligible customer-generator shall be responsible for  
33 all expenses involved in purchasing and installing a meter that is  
34 both time-of-use and able to measure total electricity flow in both  
35 directions. This subdivision shall not restrict the ability of an  
36 eligible customer-generator to utilize any economic incentives  
37 provided by a government agency or an electricity distribution  
38 utility or cooperative to reduce its costs for purchasing and  
39 installing a time-of-use meter.

1 (2) The consumption of electricity from the local publicly owned  
2 electric utility shall result in a cost to the eligible  
3 customer-generator to be priced in accordance with the standard  
4 rate charged to the eligible customer-generator in accordance with  
5 the rate structure to which the customer would be assigned if the  
6 customer did not use an eligible solar or wind electrical generating  
7 facility. The generation of electricity provided to the local publicly  
8 owned electric utility shall result in a credit to the eligible  
9 customer-generator and shall be priced in accordance with the  
10 generation component, established under the applicable structure  
11 to which the customer would be assigned if the customer did not  
12 use an eligible solar or wind electrical generating facility.

13 (3) All costs and credits shall be shown on the eligible  
14 customer-generator's bill for each billing period. In any months  
15 in which the eligible customer-generator has been a net consumer  
16 of electricity calculated on the basis of value determined pursuant  
17 to paragraph (2), the customer-generator shall owe to the local  
18 publicly owned electric utility the balance of electricity costs and  
19 credits during that billing period. In any billing period in which  
20 the eligible customer-generator has been a net producer of  
21 electricity calculated on the basis of value determined pursuant to  
22 paragraph (2), the local publicly owned electric utility shall owe  
23 to the eligible customer-generator the balance of electricity costs  
24 and credits during that billing period. Any net credit to the eligible  
25 customer-generator of electricity costs may be carried forward to  
26 subsequent billing periods, provided that a local publicly owned  
27 electric utility may choose to carry the credit over as a kilowatthour  
28 credit consistent with the provisions of any applicable contract or  
29 tariff, including any differences attributable to the time of  
30 generation of the electricity. At the end of each 12-month period,  
31 the local publicly owned electric utility may reduce any net credit  
32 due to the eligible customer-generator to zero.

33 (j) A solar or wind turbine electrical generating system, or a  
34 hybrid system of both, used by an eligible customer-generator shall  
35 meet all applicable safety and performance standards established  
36 by the National Electrical Code, the Institute of Electrical and  
37 Electronics Engineers, and accredited testing laboratories, including  
38 Underwriters Laboratories and, where applicable, rules of the  
39 commission regarding safety and reliability. A customer-generator  
40 whose solar or wind turbine electrical generating system, or a

1 hybrid system of both, meets those standards and rules shall not  
2 be required to install additional controls, perform or pay for  
3 additional tests, or purchase additional liability insurance.

4 (k) If the commission determines that there are cost or revenue  
5 obligations for an electric corporation, as defined in Section 218,  
6 that may not be recovered from customer-generators acting  
7 pursuant to this section, those obligations shall remain within the  
8 customer class from which any shortfall occurred and may not be  
9 shifted to any other customer class. Net energy metering and  
10 co-energy metering customers shall not be exempt from the public  
11 goods charges imposed pursuant to Article 7 (commencing with  
12 Section 381), Article 8 (commencing with Section 385), or Article  
13 15 (commencing with Section 399) of Chapter 2.3 of Part 1. In its  
14 report to the Legislature, the commission shall examine different  
15 methods to ensure that the public goods charges remain  
16 nonbypassable.

17 (l) A net energy metering, co-energy metering, or wind energy  
18 co-metering customer shall reimburse the Department of Water  
19 Resources, or its successor for this purpose, the Department of  
20 Energy, for all charges that would otherwise be imposed on the  
21 customer by the commission to recover bond-related costs pursuant  
22 to an agreement between the commission and the department  
23 pursuant to Section 80110 of the Water Code, as well as the costs  
24 of the department equal to the share of the department's estimated  
25 net unavoidable power purchase contract costs attributable to the  
26 customer. The commission shall incorporate the determination  
27 into an existing proceeding before the commission, and shall ensure  
28 that the charges are nonbypassable. Until the commission has made  
29 a determination regarding the nonbypassable charges, net energy  
30 metering, co-energy metering, and wind energy co-metering shall  
31 continue under the same rules, procedures, terms, and conditions  
32 as were applicable on December 31, 2002.

33 (m) In implementing the requirements of subdivisions (k) and  
34 (l), a customer-generator shall not be required to replace its existing  
35 meter except as set forth in subparagraph (A) of paragraph (1) of  
36 subdivision (c), nor shall the electricity distribution utility or  
37 cooperative require additional measurement of usage beyond that  
38 which is necessary for customers in the same rate class as the  
39 eligible customer-generator.

1 (n) It is the intent of the Legislature that the Treasurer  
 2 incorporate net energy metering, co-energy metering, and wind  
 3 energy co-metering projects undertaken pursuant to this section  
 4 as sustainable building methods or distributive energy technologies  
 5 for purposes of evaluating low-income housing projects.

6 ~~SEC. 310. Section 3302 of the Public Utilities Code is amended~~  
 7 ~~to read:~~

8 ~~3302. As used in this division, unless the context otherwise~~  
 9 ~~requires, the following terms have the following meanings:~~

10 (a) ~~“Act” means the California Consumer Power and~~  
 11 ~~Conservation Financing Authority Act.~~

12 (b) ~~“Authority” means the California Consumer Power and~~  
 13 ~~Conservation Financing Authority established pursuant to Section~~  
 14 ~~3320 and any board, commission, department, or officer succeeding~~  
 15 ~~to the functions thereof, or to whom the powers conferred upon~~  
 16 ~~the authority by this division shall be given by law. As of January~~  
 17 ~~1, 2010, the Department of Energy shall succeed to the function~~  
 18 ~~of the authority, and thereafter, “authority” means the Department~~  
 19 ~~of Energy.~~

20 (c) ~~(Reserved).~~

21 (d) ~~“Bond purchase agreement” means a contractual agreement~~  
 22 ~~executed between the authority and an underwriter or underwriters~~  
 23 ~~and, where appropriate, a participating party, whereby the authority~~  
 24 ~~agrees to sell bonds issued pursuant to this division.~~

25 (e) ~~“Bonds” means bonds, including structured, senior, and~~  
 26 ~~subordinated bonds or other securities; loans; notes, including~~  
 27 ~~bond revenue or grant anticipation notes; certificates of~~  
 28 ~~indebtedness; commercial paper; floating rate and variable maturity~~  
 29 ~~securities; and any other evidences of indebtedness or ownership,~~  
 30 ~~including certificates of participation or beneficial interest, asset~~  
 31 ~~backed certificates, or lease-purchase or installment purchase~~  
 32 ~~agreements, whether taxable or excludable from gross income for~~  
 33 ~~state and federal income taxation purposes.~~

34 (f) ~~“Cost,” as applied to a program, project, or portion thereof~~  
 35 ~~financed under this division, means all or any part of the cost of~~  
 36 ~~construction, improvement, repair, reconstruction, renovation, and~~  
 37 ~~acquisition of all lands, structures, improved or unimproved real~~  
 38 ~~or personal property, rights, rights-of-way, franchises, licenses,~~  
 39 ~~easements, and interests acquired or used for a project; the cost of~~  
 40 ~~demolishing or removing or relocating any buildings or structures~~

1 on land so acquired, including the cost of acquiring any lands to  
2 which the buildings or structures may be moved; the cost of all  
3 machinery and equipment; financing charges; the costs of any  
4 environmental mitigation; the costs of issuance of bonds or other  
5 indebtedness; interest prior to, during, and for a period after,  
6 completion of the project, as determined by the authority;  
7 provisions for working capital; reserves for principal and interest;  
8 reserves for reduction of costs for loans or other financial  
9 assistance; reserves for maintenance, extension, enlargements,  
10 additions, replacements, renovations, and improvements; and the  
11 cost of architectural, engineering, financial, appraisal, and legal  
12 services, plans, specifications, estimates, administrative expenses,  
13 and other expenses necessary or incidental to determining the  
14 feasibility of any project, enterprise, or program or incidental to  
15 the completion or financing of any project or program.

16 (g) “Department” means the Department of Energy.

17 (h) “Enterprise” means a revenue-producing improvement,  
18 building, system, plant, works, facilities, or undertaking used for  
19 or useful for the generation or production of electric energy for  
20 lighting, heating, and power for public or private uses. Enterprise  
21 includes, but is not limited to, all parts of the enterprise, all  
22 appurtenances to it, lands, easements, rights in land, water rights,  
23 contract rights, franchises, buildings, structures, improvements,  
24 equipment, and facilities appurtenant or relating to the enterprise.

25 (i) “Financial assistance” in connection with a project, enterprise  
26 or program, includes, but is not limited to, any combination of  
27 grants, loans, the proceeds of bonds issued by the authority,  
28 insurance, guarantees or other credit enhancements or liquidity  
29 facilities, and contributions of money, property, labor, or other  
30 things of value, as may be approved by resolution of the board;  
31 the purchase or retention of authority bonds, the bonds of a  
32 participating party for their retention or for sale by the authority,  
33 or the issuance of authority bonds or the bonds of a special purpose  
34 trust used to fund the cost of a project or program for which a  
35 participating party is directly or indirectly liable, including, but  
36 not limited to, bonds, the security for which is provided in whole  
37 or in part pursuant to the powers granted by this division; bonds  
38 for which the authority has provided a guarantee or enhancement;  
39 or any other type of assistance determined to be appropriate by  
40 the authority.

1 (j) ~~“Fund” means the California Consumer Power and~~  
2 ~~Conservation Financing Fund.~~

3 (k) ~~“Loan agreement” means a contractual agreement executed~~  
4 ~~between the authority and a participating party that provides that~~  
5 ~~the authority will loan funds to the participating party and that the~~  
6 ~~participating party will repay the principal and pay the interest and~~  
7 ~~redemption premium, if any, on the loan.~~

8 (l) ~~“Participating party” means either of the following:~~

9 (1) ~~Any person, company, corporation, partnership, firm,~~  
10 ~~federally recognized California Indian tribe, or other entity or~~  
11 ~~group of entities, whether organized for profit or not for profit,~~  
12 ~~engaged in business or operations within the state and that applies~~  
13 ~~for financial assistance from the authority for the purpose of~~  
14 ~~implementing a project or program in a manner prescribed by the~~  
15 ~~authority.~~

16 (2) ~~Any subdivision of the state or local government, including,~~  
17 ~~but not limited to, departments, agencies, commissions, cities,~~  
18 ~~counties, nonprofit corporations, special districts, assessment~~  
19 ~~districts, and joint powers authorities within the state or any~~  
20 ~~combination of these subdivisions, that has, or proposes to acquire,~~  
21 ~~an interest in a project, or that operates or proposes to operate a~~  
22 ~~program under Section 3365, and that makes application to the~~  
23 ~~authority for financial assistance in a manner prescribed by the~~  
24 ~~authority.~~

25 (m) ~~“Program” means a program that provides financial~~  
26 ~~assistance, as provided in Article 6 (commencing with Section~~  
27 ~~3365).~~

28 (n) ~~“Project” means plants, facilities, equipment, appliances,~~  
29 ~~structures, expansions, and improvements within the state that~~  
30 ~~serve the purposes of this division as approved by the authority,~~  
31 ~~and all activities and expenses necessary to initiate and complete~~  
32 ~~those projects described in Article 5 (commencing with Section~~  
33 ~~3350) and Article 7 (commencing with Section 3368), of Chapter~~  
34 ~~3.~~

35 (o) ~~“Revenues” means all receipts, purchase payments, loan~~  
36 ~~repayments, lease payments, rents, fees and charges, and all other~~  
37 ~~income or receipts derived by the authority from an enterprise, or~~  
38 ~~by the authority or a participating party from any other financing~~  
39 ~~arrangement undertaken by the authority or a participating party,~~  
40 ~~including, but not limited to, all receipts from a bond purchase~~

1 agreement, and any income or revenue derived from the investment  
2 of any money in any fund or account of the authority or a  
3 participating party.

4 (p) “State” means the State of California.

5 SEC. 311. Section 3310 of the Public Utilities Code is amended  
6 to read:

7 3310. The department may only exercise its powers pursuant  
8 to Article 4 (commencing with Section 3340) of Chapter 3 for the  
9 following purposes:

10 (a) Establish, finance, purchase, lease, own, operate, acquire,  
11 or construct generating facilities and other projects and enterprises,  
12 on its own or through agreements with public and private third  
13 parties or joint ventures with public or private entities, or provide  
14 financial assistance for projects or programs by participating  
15 parties, to supplement private and public sector power supplies,  
16 taking into account generation facilities in operation or under  
17 development as of the effective date of this section, and to ensure  
18 a sufficient and reliable supply of electricity for California’s  
19 consumers at just and reasonable rates.

20 (b) Finance programs, administered by the department, the  
21 commission, and other approved participating parties for consumers  
22 and businesses to invest in cost-effective energy efficient  
23 appliances, renewable energy projects, and other programs that  
24 will reduce the demand for energy in California.

25 (c) Finance natural gas transportation and storage projects under  
26 Article 7 (commencing with Section 3368) of Chapter 3.

27 (d) Achieve an adequate energy reserve capacity in California  
28 within five years of the effective date of this division.

29 (e) Provide financing for owners of aged, inefficient, electric  
30 powerplants to perform necessary retrofits to improve the efficiency  
31 and environmental performances of those powerplants.

32 SEC. 312. Section 3320 of the Public Utilities Code is amended  
33 to read:

34 3320. (a) The department, also referred to in this division as  
35 the authority, shall be responsible for administering this division.

36 (b) The department shall implement the purposes of Chapter 2  
37 (commencing with Section 3310), and to that end finance projects  
38 and programs in accordance with this division, all to the mutual  
39 benefit of the people of the state and to protect their health, welfare,  
40 and safety.

1     ~~SEC. 313. Section 3325 of the Public Utilities Code is repealed.~~

2     ~~SEC. 314. Section 3326 of the Public Utilities Code is repealed.~~

3     ~~SEC. 315. Section 3327 of the Public Utilities Code is repealed.~~

4     ~~SEC. 316. Section 3330 of the Public Utilities Code is amended~~  
5     ~~to read:~~

6     ~~3330. Except as otherwise provided in this section, the~~  
7     ~~department may assign to a designee, those duties generally~~  
8     ~~necessary or convenient to carry out its powers and purposes under~~  
9     ~~this division. Any action involving final approval of any bonds,~~  
10    ~~notes, loans, or other financial assistance shall require the approval~~  
11    ~~of the department.~~

12    ~~SEC. 317. Section 3340 of the Public Utilities Code is repealed.~~

13    ~~SEC. 318. Section 3340 is added to the Public Utilities Code,~~  
14    ~~to read:~~

15    ~~3340. (a) The department is authorized and empowered to do~~  
16    ~~all things generally necessary or convenient to carry out its powers~~  
17    ~~under, and the purposes of, this division.~~

18    ~~(b) Except as provided in subdivision (c), bonding authority~~  
19    ~~under this division shall not be utilized by the department unless~~  
20    ~~the Secretary of Energy has delivered to the Joint Legislative~~  
21    ~~Budget Committee written notice of intent to exercise that authority~~  
22    ~~at least 30 days in advance. The notice shall reasonably describe~~  
23    ~~the purpose for which the bonding authority will be used and the~~  
24    ~~circumstances that support its use.~~

25    ~~(c) If the proposed exercise of authority is in response to a~~  
26    ~~declared emergency by the Governor, notice by the Secretary of~~  
27    ~~Energy is not required to be delivered 30 days in advance but shall~~  
28    ~~be delivered to the Joint Legislative Budget Committee as close~~  
29    ~~to 30 days in advance as is feasible under the circumstances.~~

30    ~~SEC. 319. Section 3341 of the Public Utilities Code is amended~~  
31    ~~to read:~~

32    ~~3341. In connection with the purposes of this division, the~~  
33    ~~department may do any of the following:~~

34    ~~(a) Issue bonds, from time to time, as further provided in Chapter~~  
35    ~~5 (commencing with Section 3380.1), to pay all or part of the cost~~  
36    ~~of any enterprise, project, or program, or to otherwise carry out~~  
37    ~~the purposes of this division.~~

38    ~~(b) Enter into joint powers agreements with eligible public~~  
39    ~~agencies pursuant to Chapter 5 (commencing with Section 6500)~~  
40    ~~of Division 7 of Title 1 of the Government Code.~~

1 ~~(e) Subject to any statutory or constitutional limitation on their~~  
2 ~~use, do any of the following as may, in the determination of the~~  
3 ~~department, be necessary or convenient for the successful~~  
4 ~~development, conduct, or financing of a project, program, or~~  
5 ~~enterprise, or for carrying out the purposes of this division:~~

6 ~~(1) Engage the services, including, without limitation, the~~  
7 ~~services of private consultants; attorneys; financial professionals~~  
8 ~~and advisors; engineers; architects; construction, land use and~~  
9 ~~environmental experts; and accountants, to render professional~~  
10 ~~and technical assistance and advice.~~

11 ~~(2) Contract for engineering, architectural, accounting, or other~~  
12 ~~services of appropriate state agencies.~~

13 ~~(3) Pay the reasonable costs, including, without limitation, costs~~  
14 ~~of consulting engineers, architects, accountants, and construction,~~  
15 ~~land use, and environmental experts employed by the department~~  
16 ~~or any participating party. Except as otherwise provided in Section~~  
17 ~~3341.5, those costs shall be recovered from participating parties.~~

18 ~~(d) Acquire, lease, take title to, and sell by installment sale or~~  
19 ~~otherwise, lands, structures, real or personal property, rights,~~  
20 ~~rights-of-way, franchises, easements, and other interests in lands~~  
21 ~~that are located within the state, as the department determines to~~  
22 ~~be necessary or convenient for an enterprise or the financing of a~~  
23 ~~project, upon terms and conditions the department considers to be~~  
24 ~~reasonable.~~

25 ~~(e) Make, receive, or serve as a conduit for the making of, or~~  
26 ~~otherwise provide for, grants, contributions, guarantees, insurance,~~  
27 ~~credit enhancements or liquidity facilities, or other financial~~  
28 ~~enhancements to a participating party as financial assistance for a~~  
29 ~~project or program. The sources may include bond proceeds,~~  
30 ~~dedicated taxes, state appropriations, federal appropriations, federal~~  
31 ~~grants and loan funds, public and private sector retirement system~~  
32 ~~funds, and proceeds of loans from the Pooled Money Investment~~  
33 ~~Account, or any other source of money, property, labor, or other~~  
34 ~~things of value.~~

35 ~~(f) Make loans to any participating party, either directly or by~~  
36 ~~making a loan to a lending institution or other financial~~  
37 ~~intermediary, in connection with the financing of a project or~~  
38 ~~program in accordance with an agreement between the department~~  
39 ~~and a participating party, either as a sole lender or in participation~~  
40 ~~with other lenders.~~

1     ~~(g) Make loans to any participating party, either directly or by~~  
 2 ~~making a loan to a lending institution, in accordance with an~~  
 3 ~~agreement between the department and the participating party to~~  
 4 ~~refinance indebtedness incurred by the participating party in~~  
 5 ~~connection with projects undertaken and completed prior to any~~  
 6 ~~agreement with the department or expectation that the department~~  
 7 ~~would provide financing, either as a sole lender or in participation~~  
 8 ~~with other lenders. The power generated by those projects shall~~  
 9 ~~be subject to the terms and conditions specified by the department~~  
 10 ~~in the agreement and pursuant to Section 3351.~~

11     ~~(h) Mortgage all or any portion of the department’s interest in~~  
 12 ~~a project or enterprise and the property on which any project or~~  
 13 ~~enterprise is located, whether owned or thereafter acquired,~~  
 14 ~~including the granting of a security interest in any property,~~  
 15 ~~tangible or intangible.~~

16     ~~(i) Assign or pledge all or any portion of the department’s~~  
 17 ~~interest in assets, things of value, mortgages, deeds of trust, bonds,~~  
 18 ~~bond purchase agreements, loan agreements, indentures of~~  
 19 ~~mortgage or trust, or similar instruments, notes, and security~~  
 20 ~~interests in property, tangible or intangible and the revenues~~  
 21 ~~therefrom, of a participating party to which the department has~~  
 22 ~~made loans, and the revenues therefrom, including payment or~~  
 23 ~~income from any interest owned or held by the department, for the~~  
 24 ~~benefit of the holders of bonds.~~

25     ~~(j) Lease the project being financed to a participating party,~~  
 26 ~~upon terms and conditions that the department deems proper;~~  
 27 ~~charge and collect rents therefor; terminate any lease upon the~~  
 28 ~~failure of the lessee to comply with any of the obligations thereof;~~  
 29 ~~include in any lease, if desired, provisions that the lessee shall~~  
 30 ~~have options to renew the lease for a period or periods, and at rents~~  
 31 ~~determined by the department; purchase any or all of the project;~~  
 32 ~~or, upon payment of all the indebtedness incurred by the~~  
 33 ~~department for the financing of the project, the authority may~~  
 34 ~~convey, any or all of the project to the lessee or lessees. The power~~  
 35 ~~generated by those projects shall be subject to the terms and~~  
 36 ~~conditions specified by the department in the agreement and~~  
 37 ~~pursuant to Section 3351.~~

38     ~~(k) (1) Issue, obtain, or aid in obtaining, from any department~~  
 39 ~~or agency of the United States, from other agencies of the state,~~  
 40 ~~or from any private company, any insurance or guarantee to or for,~~

1 or any letter or line of credit regarding, the payment or repayment  
2 of interest or principal, or both, or any part thereof, on any bond,  
3 loan, lease, or obligation or any instrument evidencing or securing  
4 the same, made or entered into pursuant to this division.

5 (2) Notwithstanding any other provision of this division, enter  
6 into any agreement, contract or other instrument regarding any  
7 insurance, guarantee, letter or line of credit specified in paragraph  
8 (1), and accept payment in the manner and form provided therein  
9 in the event of default by a participating party.

10 (3) Assign any insurance, guarantee, letter or line of credit  
11 specified in paragraph (1) as security for bonds issued by the  
12 department.

13 (l) Enter into any agreement or contract, execute any instrument,  
14 and perform any act or thing necessary or convenient to, directly  
15 or indirectly, secure the department's bonds or a participating  
16 party's obligations to the department, including, but not limited  
17 to, bonds of a participating party purchased by the department for  
18 retention or sale, with funds or moneys that are legally available  
19 and that are due or payable to the participating party by reason of  
20 any grant, allocation, apportionment, or appropriation of the state  
21 or agencies thereof, to the extent that the Controller shall be the  
22 custodian at any time of these funds or moneys, or with funds or  
23 moneys that are or will be legally available to the participating  
24 party, the department, or the state or any agencies thereof by reason  
25 of any grant, allocation, apportionment, or appropriation of the  
26 federal government or agencies thereof; and in the event of written  
27 notice that the participating party has not paid or is in default on  
28 its obligations to the department, direct the Controller to withhold  
29 payment of those funds or moneys from the participating party  
30 over which it is or will be custodian and to pay the same to the  
31 department or its assignee, or direct the state or any agencies  
32 thereof to which any grant, allocation, apportionment, or  
33 appropriation of the federal government or agencies thereof is or  
34 will be legally available to pay the same upon receipt to the  
35 department or its assignee, until the default has been cured and the  
36 amounts then due and unpaid have been paid to the department or  
37 its assignee, or until arrangements satisfactory to the department  
38 have been made to cure the default.

39 (m) Purchase, with the proceeds of the department's bonds,  
40 bonds issued by, or for the benefit of, any participating party in

1 connection with a project, pursuant to a bond purchase agreement  
 2 or otherwise. Bonds purchased pursuant to this division may be  
 3 held by the department, pledged or assigned by the department,  
 4 or sold to public or private purchasers at public or negotiated sale,  
 5 in whole or in part, separately or together with other bonds issued  
 6 by the department, and notwithstanding any other provision of  
 7 law, may be bought by the department at private sale.

8 (n) Enter into purchase and sale agreements with all entities,  
 9 public and private, including state and local government pension  
 10 funds, with respect to the sale or purchase of bonds.

11 SEC. 320. Section 3341.1 of the Public Utilities Code is  
 12 amended to read:

13 3341.1. In connection with an enterprise, the department may  
 14 do any or all of the following:

15 (a) Acquire any enterprise by gift, purchase, or eminent domain  
 16 as necessary to achieve the purposes of the department pursuant  
 17 to Sections 3310 and 3352.

18 (b) Construct or improve any enterprise. By gift, lease, purchase,  
 19 eminent domain, or otherwise, it may acquire any real or personal  
 20 property, for an enterprise, except that no property of a state public  
 21 body may be acquired without its consent. The department may  
 22 sell, lease, exchange, transfer, assign, or otherwise dispose of any  
 23 real or personal property or any interest in such property. It may  
 24 lay out, open, extend, widen, straighten, establish, or change the  
 25 grade of any real property or public rights-of-way necessary or  
 26 convenient for any enterprise.

27 (c) Operate, maintain, repair, or manage all or any part of any  
 28 enterprise, including the leasing for commercial purposes of surplus  
 29 space or other space that is not economic to use for such enterprise.

30 (d) Adopt reasonable rules or regulations for the conduct of the  
 31 enterprise.

32 (e) Prescribe, revise, and collect charges for the services,  
 33 facilities, or energy furnished by the enterprise. The charges shall  
 34 be established and adjusted so as to provide funds sufficient with  
 35 other revenues and moneys available therefor, if any, to (1) pay  
 36 the principal of and interest on outstanding bonds of the department  
 37 financing such enterprise as the same shall become due and  
 38 payable, (2) create and maintain reserves, including, without  
 39 limitation, operating and maintenance reserves and reserves  
 40 required or provided for in any resolution authorizing, or trust

1 ~~agreement securing such bonds, and (3) pay operating and~~  
2 ~~administrative costs of the department.~~

3 ~~(f) Execute all instruments, perform all acts, and do all things~~  
4 ~~necessary or convenient in the exercise of the powers granted by~~  
5 ~~this article.~~

6 ~~SEC. 321. Section 3341.2 of the Public Utilities Code is~~  
7 ~~amended to read:~~

8 ~~3341.2. In connection with a project, the department may do~~  
9 ~~any or all of the following:~~

10 ~~(a) Determine the location and character of any project to be~~  
11 ~~financed under this division.~~

12 ~~(b) Acquire, construct, enlarge, remodel, renovate, alter,~~  
13 ~~improve, furnish, equip, own, maintain, manage, repair, operate,~~  
14 ~~lease as lessee or lessor, or regulate any project to be financed~~  
15 ~~under this division.~~

16 ~~(c) Contract with any participating party for the construction of~~  
17 ~~a project by such participating party.~~

18 ~~(d) Enter into leases and agreements, as lessor or lessee, with~~  
19 ~~any participating party relating to the acquisition, construction,~~  
20 ~~and installation of any project, including real property, buildings,~~  
21 ~~equipment, and facilities of any kind or character.~~

22 ~~(e) Establish, revise, charge and collect rates, rents, fees and~~  
23 ~~charges for a project. The rates, rents, fees, and charges shall be~~  
24 ~~established and adjusted in respect of the aggregate rates, rents,~~  
25 ~~fees, and charges from all projects so as to provide funds sufficient~~  
26 ~~with other revenues and moneys available therefor, if any, to (1)~~  
27 ~~pay the principal of and interest on outstanding bonds of the~~  
28 ~~department financing such project as the same shall become due~~  
29 ~~and payable, (2) create and maintain reserves, including, without~~  
30 ~~limitation, operating and maintenance reserves and reserves~~  
31 ~~required or provided for in any resolution authorizing, or trust~~  
32 ~~agreement securing such bonds, and (3) pay operating and~~  
33 ~~administrative costs of the department.~~

34 ~~(f) Enter into contracts of sale with any participating party~~  
35 ~~covering any project financed by the department.~~

36 ~~(g) As an alternative to leasing or selling a project to a~~  
37 ~~participating party, finance the acquisition, construction, or~~  
38 ~~installation of a project by means of a loan to the participating~~  
39 ~~party.~~

1     ~~(h) Execute all instruments, perform all acts, and do all things~~  
2     ~~necessary or convenient in the exercise of the powers granted by~~  
3     ~~this article.~~

4     ~~SEC. 322. Section 3345 of the Public Utilities Code is amended~~  
5     ~~to read:~~

6     ~~3345.—The department’s operating budget under this division~~  
7     ~~shall be subject to review and appropriation in the annual Budget~~  
8     ~~Act. For purposes of this section, the department’s operating budget~~  
9     ~~under this division shall include the costs of personnel,~~  
10    ~~administration, and overhead attributable to carrying out this~~  
11    ~~division.~~

12    ~~SEC. 323. Section 3370 of the Public Utilities Code is amended~~  
13    ~~to read:~~

14    ~~3370.—(a) There is hereby created in the State Treasury the~~  
15    ~~California Consumer Power and Conservation Financing Fund for~~  
16    ~~expenditure by the department for the purpose of implementing~~  
17    ~~the objectives and provisions of this division. For the purposes of~~  
18    ~~subdivision (e), or as necessary or convenient to the~~  
19    ~~accomplishment of any other purpose of the department, the~~  
20    ~~department may establish within the fund additional and separate~~  
21    ~~accounts and subaccounts.~~

22    ~~(b) The assets of the fund shall be available for the payment of~~  
23    ~~the salaries and other expenses charged against it in accordance~~  
24    ~~with this division.~~

25    ~~(c) Except as provided under Section 3345, all moneys in the~~  
26    ~~fund that are not General Fund moneys are continuously~~  
27    ~~appropriated to the department and may be used for any reasonable~~  
28    ~~costs that may be incurred by the department in the exercise of its~~  
29    ~~powers under this division.~~

30    ~~(d) The fund, on behalf of the department, may borrow or~~  
31    ~~receive moneys from the department, or from any federal, state,~~  
32    ~~or local agency or private entity, to create reserves in the fund as~~  
33    ~~provided in this division and as authorized by the board.~~

34    ~~(e) The department may pledge any or all of the moneys in the~~  
35    ~~fund (including in any account or subaccount) as security for~~  
36    ~~payment of the principal of, and interest on, any particular issuance~~  
37    ~~of bonds issued pursuant to this division.~~

38    ~~(f) The department, may, from time to time, direct the Treasurer~~  
39    ~~to invest moneys in the fund that are not required for the~~  
40    ~~department’s current needs, including proceeds from the sale of~~

1 any bonds, in any securities permitted by law as the department  
2 shall designate. The department also may direct the Treasurer to  
3 deposit moneys in interest-bearing accounts in state or national  
4 banks or other financial institutions having principal offices in this  
5 state. The department may alternatively require the transfer of  
6 moneys in the fund to the Surplus Money Investment Fund for  
7 investment pursuant to Article 4 (commencing with Section 16470)  
8 of Chapter 3 of Part 2 of Division 4 of the Government Code. All  
9 interest or other increment resulting from an investment or deposit  
10 shall be deposited in the fund, notwithstanding Section 16305.7  
11 of the Government Code. Moneys in the fund shall not be subject  
12 to transfer to any other fund pursuant to any provision of Part 2  
13 (commencing with Section 16300) of Division 4 of the Government  
14 Code, excepting the Surplus Money Investment Fund.

15 ~~SEC. 324.~~

16 *SEC. 310.* Section 9502 of the Public Utilities Code is amended  
17 to read:

18 9502. On or before December 1, 1994, and on a biennial basis  
19 thereafter, each publicly owned electric and gas utility shall submit  
20 a report to the Department of Energy describing the status of their  
21 low-income weatherization programs required by Sections 9500  
22 and 9501. Thereafter, as part of the biennial conservation report  
23 prepared pursuant to Section 25401.1 of the Public Resources  
24 Code, the department shall report to the Legislature summarizing  
25 publicly owned utility efforts to comply with Sections 9500 and  
26 9501.

27 ~~SEC. 325.~~ Section 80000 of the Water Code is amended to  
28 read:

29 80000. The Legislature hereby finds and declares all of the  
30 following:

31 (a) ~~The furnishing of reliable reasonably priced electric service~~  
32 ~~is essential for the safety, health, and well-being of the people of~~  
33 ~~California. A number of factors have resulted in a rapid, unforeseen~~  
34 ~~shortage of electric power and energy available in the state and~~  
35 ~~rapid and substantial increases in wholesale energy costs and retail~~  
36 ~~energy rates, with statewide impact, to such a degree that it~~  
37 ~~constitutes an immediate peril to the health, safety, life and property~~  
38 ~~of the inhabitants of the state, and the public interest, welfare,~~  
39 ~~convenience and necessity require the state to participate in markets~~  
40 ~~for the purchase and sale of power and energy.~~

1 ~~(b) In order for the state to adequately and expeditiously~~  
2 ~~undertake and administer the critical responsibilities established~~  
3 ~~in this division, it must be able to obtain, in a timely manner,~~  
4 ~~additional and sufficient personnel with the requisite expertise and~~  
5 ~~experience in energy marketing, energy scheduling, and accounting.~~

6 ~~SEC. 326.— Section 80001 is added to the Water Code, to read:~~

7 ~~80001. The Department of Energy hereby succeeds to and is~~  
8 ~~vested with all powers, duties, rights, assets, responsibilities,~~  
9 ~~obligations, liabilities, and jurisdiction previously vested with the~~  
10 ~~Department of Water Resources under this division. Whenever~~  
11 ~~the term “department” is used in this division, it shall henceforth~~  
12 ~~mean the Department of Energy. Any authority conferred upon~~  
13 ~~the Department of Water Resources by any other provision of law~~  
14 ~~for the purpose of carrying out any function described in this~~  
15 ~~division is hereby vested in, and may be exercised by, the~~  
16 ~~Department of Energy. The transfer of functions described in this~~  
17 ~~division to the Department of Energy does not in any way~~  
18 ~~invalidate or alter prior actions undertaken by the Department of~~  
19 ~~Water Resources under this division and every instrument,~~  
20 ~~obligation, rate entitlement, or other rights resulting from the prior~~  
21 ~~actions remain fully in effect.~~

22 ~~SEC. 327.— Section 80001.5 is added to the Water Code, to read:~~

23 ~~80001.5. (a) All officers and employees of the Department of~~  
24 ~~Water Resources who, on January 1, 2010, are serving in the state~~  
25 ~~civil service, other than as temporary employees, and are exercising~~  
26 ~~any duty, power, purpose, responsibility, or jurisdiction to which~~  
27 ~~the Department of Energy succeeds pursuant to Section 80001,~~  
28 ~~are transferred to the Department of Energy. The status, positions,~~  
29 ~~and rights of those persons existing prior to the transfer shall not~~  
30 ~~be affected by the transfer and shall be retained by those persons~~  
31 ~~as officers and employees of the Department of Energy, pursuant~~  
32 ~~to the State Civil Service Act (Part 2 (commencing with Section~~  
33 ~~18500) of Division 5 of Title 2 of the Government), except as to~~  
34 ~~positions exempted from civil service.~~

35 ~~(b) The Department of Energy shall have possession and control~~  
36 ~~of all records, papers, offices, equipment, supplies, moneys, funds,~~  
37 ~~appropriations, licenses, permits, agreements, contracts, claims,~~  
38 ~~judgments, and land or other property, real or personal, connected~~  
39 ~~with the administration of, or held for the benefit or use of the~~  
40 ~~Department of Water Resources for the performance of the~~

1 ~~functions transferred to the Department of Energy by Section~~  
2 ~~80001.~~

3 ~~(e) All rules, orders, and decisions of the Department of Water~~  
4 ~~Resources in effect immediately preceding the effective date of~~  
5 ~~this section shall remain in effect and shall be fully enforceable~~  
6 ~~unless and until readopted, amended, or repealed, or until they~~  
7 ~~expire by their own terms.~~

8 ~~(d) No contract, lease, license, bond, or any other agreement to~~  
9 ~~which the Department of Water Resources is a party shall be void~~  
10 ~~or voidable by reason of the transfer of functions to the Department~~  
11 ~~of Energy by Section 80001, but shall continue in full force and~~  
12 ~~effect, with the Department of Energy assuming all of the rights,~~  
13 ~~obligations, liabilities, and duties of the Department of Water~~  
14 ~~Resources. The assumption by the Department of Energy shall not~~  
15 ~~in any way affect the rights of the parties to the contract, lease,~~  
16 ~~license, bond, or other agreement.~~

17 ~~SEC. 328.~~

18 *SEC. 311.* This act addresses the fiscal emergency declared by  
19 the Governor by proclamation on December 19, 2008, pursuant  
20 to subdivision (f) of Section 10 of Article IV of the California  
21 Constitution.

22 ~~SEC. 329.~~

23 *SEC. 312.* The provisions of this act are severable. If any  
24 provision of this act or its application is held invalid, that invalidity  
25 shall not affect other provisions or applications that can be given  
26 effect without the invalid provision or application.

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